

## PROCEEDINGS OF THE BROWN COUNTY EXECUTIVE COMMITTEE

Pursuant to Section 18.94 Wis. Stats., a regular meeting of the **Brown County Executive Committee** was held on Monday, May 7 2012 in Room 200 of the Northern Building – 305 East Walnut Street, Green Bay, Wisconsin

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**Present:** Pat Buckley, Bernie Erickson, Pat Evans, Steve Fewell, Tom Lund, Pat Moynihan, Pat Wetzel

**Also Present:** Executive Troy Streckenbach, Supervisors Schuller & Zima, Deb Klarkowski, Bret Miller, Kristen Hooker, Fred Mohr, Other Interested Parties, Media

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I. **Call Meeting to Order:**

The meeting was called to order by Tom Lund at 5:30 p.m.

II. **Approve/Modify Agenda:**

Item 8d was moved forward and addressed in open session.

Item #9 was moved before #8a.

**Motion by Supervisor Buckley, seconded by Supervisor Erickson to approve the agenda as amended. MOTION UNANIMOUSLY APPROVED**

III. **Election of Chair:**

Consensus was to waive election and appoint Tom Lund as Chairman of the Executive Committee in his capacity as Vice-Chairman of the County Board.

IV. **Election of Vice-Chair**

**Nomination by Erickson, seconded by Buckley to elect Pat Moynihan as Vice-Chair of the Executive Committee. Nominations Closed.**

**PAT MOYNIHAN ELECTED AS VICE-CHAIR OF THE EXECUTIVE COMMITTEE BY UNANIMOUS BALLOT.**

V **Set Time and Date for Regular Meetings:**

**Motion by Supervisor Moynihan, seconded by Supervisor Wetzel to set the time and date of Executive Committee meetings at 5:30 p.m. the Monday prior to the County Board meeting. MOTION UNANIMOUSLY APPROVED**

At the suggestion of Supervisor Erickson, it was the consensus of the committee that if the appointed member cannot attend, the Vice-Chair of the standing committee will attend in his place.

VI. **Approve/Modify Minutes of March 12, 212:**

**Motion by Supervisor Moynihan, seconded by Supervisor Erickson to approve the minutes. MOTION UNANIMOUSLY APPROVED**

1. **Review of Minutes:**

a. **Facility Master Plan Subcommittee (March 12, 2011):**

**Motion by Supervisor Fewell, seconded by Supervisor Moynihan to receive and place on file. MOTION UNANIMOUSLY APPROVED**

8. **Labor Attorney Report:**

d. **Closed Session Pursuant to Wis. Stats 19.85 (1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. (Health Insurance)**

Attorney Mohr addressed the committee in open session relative to supervisor health insurance, stating that Human Resources has received requests from several supervisors regarding the insurance benefit that was passed by the County Board at budget time. At that time the County Board passed the health insurance benefit at 50%, however, the County Executive vetoed the funding. Consequently in late February, HR sent notices out to those supervisors who were taking the insurance informing them they would be eligible for COBRA. This prompted several calls asking why the County is not funding this benefit which was passed by the County Board.

Mohr stated he contacted Corporation Counsel, John Luetscher, who stated the matter should be handled by Human Resources and turned it back to him.

The reason for the potential closed session, Mohr explained, is because preliminary research done by him resulted in the conclusion there may be issues appropriate to a closed session, one being potential legal exposure to the County, with another being HIPPA issues.

Mohr indicated that a recent opinion by the Attorney General has determined that health insurance is considered compensation in regard to County Board Supervisors. Since the County Board approved Supervisor compensation which was vetoed, the question now is how it will be funded. Mohr indicated there are ways to deal with under-funded liabilities to the County, one being intra-departmental transfers which would go through the Administration Committee, or 2) to take from contingency funds.

Mohr stated that compensation if not funded which was approved may lead to potential liability. He informed the committee he has had several calls from supervisors with one threatening to sue the County in court if the benefit is not funded as approved. Since the end of April, supervisor health insurance has not been a funded benefit, and the 50% has not been collected waiting for this committee to meet and make a decision.

Mohr explained that the County Board has the choice to get an opinion from other outside counsel, or from the Attorney General, or it can be taken to Circuit Court with a request for a declaratory ruling.

Supervisor Buckley clarified with Mohr that supervisors are considered employees and asked that that be provided in writing. In his opinion there may be a conflict of interest as Mohr represents both the County Board and Human Resources. He questioned where Mohr got the authority to continue the coverage. Mohr indicated that after his attempt to

turn the matter over to Corporation Counsel with the result that it came back to him, in order to avoid liability to the County, he determined that coverage should be continued until it came before this committee and a decision was made. He agrees that another opinion should be sought.

On behalf of Attorney Mohr, Supervisor Zima pointed out that Mohr has not been the Board Attorney since the end of February. He indicated a closed session may not be appropriate because of violation with HIPPA rules and urged that a decision be made as to how the Board wants to handle this conflict.

Supervisor Wetzel asked if a contract exists which states that supervisors are eligible for health coverage. Mohr replied that the resolution passed by the Board at budget time states that health insurance is available to supervisors at a 50% cost. Wetzel questioned whether it was appropriate for closed session discussion with supervisors who are involved and have threatened legal action.

If a special meeting is scheduled, Moynihan urged that it not be held before the County Board because of the length of the discussion and expressed concerns that none of the supervisors who have issues are present.

When Acting Corporation Counsel, Kristin Hooker, was asked if insurance is an employee benefit, she replied that case law states that compensation has multiple definitions. Mohr presented her with case law, however, she said it was related to a self-funded county, which Brown County is not. She indicated she has not found an opinion directly on point, therefore, recommended that an Attorney General opinion would be beneficial. The question is whether the resolution passed by the County Board but not appropriated is legal.

Executive Streckenbach explained the process leading to this discussion stating that those supervisors who selected the insurance plan were sent a letter informing them of their option to use COBRA. If the answer to the question as to whether or not the county is still obligated to provide insurance is found to be yes, the County would reimburse those supervisors who chose COBRA.

Streckenbach stated he not recall any conversation that coverage would continue at 50% and Mohr agreed, although indicating there have not been any notices of termination sent at this time.

Further debate resulted in the recommendation to schedule a special meeting on Wednesday, May 9<sup>th</sup> to make a decision as to whether the County wants to continue coverage, if there are supervisors receiving coverage and at what cost, and other details. See Other Matters for Special Meeting time and date.

**Communications:**

- 2. Communication from Supervisor Miller re: Brown County shall give the Convention and Visitor Bureau (CVB) an additional \$180,000 per year in room tax from the Stabilization Fund (excess from room tax and refinancing surplus). Brown County shall renegotiate the lease with VCB to charge an additional \$25,000 per month from the Resch Center Tenant**

and Subtenant. It is hoped that the additional rent would be developed to maintenance of the Resch Center facility. *Motion at Feb Exec: Hold for 60 days.*

**Motion by Supervisor Erickson, seconded by Supervisor Moynihan to receive and place on file. MOTION UNANIMOUSLY APPROVED**

3. **Communication from Supervisor Miller re: That Brown County begin surcharging employees and dependents under the County's health insurance plan for the behavior of smoking. According to recent data, smoking employees and dependents incur on average \$3500 in increased health costs per year. I propose to surcharge an employee who smokes \$50/month. I propose to surcharge each insured dependent \$25 per month. This would be put in place as soon as practicable. *Motion on Feb Exec: To move forward, gather more information (the legalities with Corporation Counsel, the implementation process form Human Resources) to come up with proposals in the next 60 days.***

Deb Klarkowski reported that at this time no work has been done on costing, however, the County does have a cessation plan through the present insurance. She was directed to get this information out to employees.

Supervisor Erickson informed the committee of a phone number - 1-800 QUIT NOW which provides quit smoking materials at no cost.

**Motion by Supervisor Erickson, seconded by Supervisor Evans to receive and place on file. Motion by substitution made by Supervisor Erickson, seconded by Evans to refer to Human Resources to promote cessation policy and a healthy life style. MOTION UNANIMOUSLY APPROVED**

4. **Communication from Supervisor VanderLeest re: Request for a Summary of the top 25 employers in Brown County to determine employee health care contributions and other employee benefits provided. *Referred from Administration Committee:***

Klarkowski indicated there is presently a study underway to determine comparables related to employee health care contributions and other benefits provided, although not with the top 25 employers.

**Motion by Supervisor Moynihan, seconded by Supervisor Erickson to receive and place on file. MOTION UNANIMOUSLY APPROVED**

**Legal Bills:**

5. **Review and Possible Action on Legal Bills to be Paid:**

**Motion made by Supervisor Erickson, seconded by Supervisor Wetzel to approve payment of legal bills. MOTION UNANIMOUSLY APPROVED**

**Reports:**

6. **County Executive Report:**
  - a. **Budget Status Financial Repots for January, February, and March 2012:**

**Motion by Supervisor Fewell, seconded by Supervisor Wetzel to receive and place on file. MOTION UNANIMOUSLY APPROVED**

- b. **Brown County Veterans Memorial Complex Deferred Maintenance Planning Executive Summary.** *Motion at Feb Exec: To refer back to staff to come up with a plan and recommendations of what is needed to be adopted, possible funding mechanisms, and a priority list of what is needed to be repaired in a chronological order and bring back in 60 days.*

Executive Streckenbach indicated that the goal is to follow through with this recommendation after the contract with PMI has been approved.

**Motion by Supervisor Fewell, seconded by Supervisor Wetzel to refer to June meeting. MOTION UNANIMOUSLY APPROVED**

7. **Board of Supervisors:**  
a. **Budget Status Financial Report for March 2012:**

**Motion by Supervisor Fewell, seconded by Supervisor Moynihan to receive and place on file. MOTION UNANIMOUSLY APPROVED**

**Resolutions/Ordinances:**

9. **Resolution re: Change in Table of Organization Public Works Department – Engineering Division Civil Engineer:**

Paul Fontecchio that the Public Works Department currently has 2.0 FTE Engineer Tech I positions. Human Resources in conjunction with Public Works has evaluated the operational needs of the department and has determined to create a Civil Engineer position which will improve quality and efficiency. Therefore, the recommendation is to delete a 1.0 Engineer Tech I position, and add a 1.0 FTE Civil Engineer position to the Table of Organization. The Civil Engineer position will start at Grade 16 with funding available in the Highway budget.

**Motion by Supervisor Erickson, seconded by Supervisor Moynihan to approve. MOTION UNANIMOUSLY APPROVED**

*Supervisor Buckley excused at 6:25 p.m.*

8. **Labor Attorney Report:**

- a. **Union Certifications:**

A handout addressing this issue was distributed by Attorney Mohr and is attached. Mohr updated the committee stating that Highway employees are subject to a Clarification Petition pending in front of WEAC to consolidate as a Department of Public Works unit.

Mohr also informed the committee that the Federal Court struck down a portion of the Walker Repair Bill (2011 Act 10) including the decertification portion. In April the parties appealed and a stay was issued on the decertification language. If the

District Court is upheld, all unions presently decertified will be returned to certified status. See attachment for a list of those involved.

**Motion by Supervisor Erickson, seconded by Supervisor Wetzel to receive and place on file. MOTION UNANIMOUSLY APPROVED**

- b. **Discussion of Employee Handbook:**  
The final draft of the Employee Handbook will be reviewed a last time and sent to members before the June meeting.

**Motion by Supervisor Erickson, seconded by Supervisor Moynihan to refer to June meeting. MOTION UNANIMOUSLY APPROVED**

- c. **Closed Session Pursuant to Wis Stats 19.85(1)( c ) to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. (Labor Negotiations)**

**Motion by Moynihan, seconded by Wetzel to enter into Closed Session. Roll Call:  
Present: Bernie Erickson, Pat Evans,  
Steve Fewell, Tom Lund, Pat Moynihan, Pat Wetzel  
Excused: Pat Buckley  
MOTION UNANIMOUSLY APPROVED**

*Recording Secretary excused 6:35p.m.*

**Motion by Evans, seconded by Erickson to return to regular order of business. Roll Call: Present: Bernie Erickson, Pat Evans, Steve Fewell, Tom Lund, Pat Moynihan, Pat Wetzel  
Excused: Pat Buckley  
MOTION UNANIMOUSLY APPROVED**

- d. **Closed Session Pursuant to Wis. Stats 19.85 (1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. (Health Insurance) See discussion beginning on page 2.**

10. **Other:**  
**Special Meeting scheduled on Wednesday, May 9, 2012 at 5:30 p.m. to discuss Supervisor Health Insurance Coverage.**

**Motion made by Supervisor Moynihan, seconded by Supervisor Wetzel to adjourn at 6:37 p.m. MOTION UNANIMOUSLY APPROVED**

Respectfully submitted,

Rae G. Knippel  
Recording Secretary

**UNION CERTIFICATIONS**

- Human Services Professional Employees (133)
- Human Services Para-Professional Employees (39)
- Museum Employees (Teamsters) (8)
- Highway Employees (Teamsters)\* (90)
- Corrections Employees (Teamsters) (141)
- Airport Employees (Teamsters) (20)
- Electricians (IBEW No. 158) (5)
- Sheriff's Non-Supervisory Employees (125)
- Sheriff's Supervisory Employees (24)

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\* The Highway employees are subject to a Clarification Petition pending in front of the WERC to consolidate as a Department of Public Works unit.

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NOTE: In WEAC v. Walker, 2011 CV 248, the Federal Court struck down a portion of the Walker Repair Bill (2011 Act 10) including the decertification portion. On April 27, 2012, the parties appealed and a stay was issued on the decertification language. If the District Court is upheld, all unions presently decertified will be returned to certified status. These include:

- Courthouse Employees (Teamsters) (275)
- Public Health Nurses (AFSCME) (13)
- Mental Health 1901 (AFSCME) (206)
- Mental Health Nurses (AFSCME) (38)
- Library Professional Employees (AFSCME) (15)
- Library Para-Professional Employees (AFSCME) (39)
- Library Clerks (AFSCME) (61)
- Shelter Care Employees (AFSCME) (28)
- Sanitarians (6)
- Medical Examiner Deputies (7)

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585 Employees now covered by certified unions

688 Employees were in unions now in decertified status

9a