

**PROCEEDINGS OF THE BROWN COUNTY
EXECUTIVE COMMITTEE**

Pursuant to Section 19.84 Wis. Stats., a regular meeting of the Brown County Executive Committee was held on Monday, October 8, 2018 in Room 200 of the Northern Building, 305 E. Walnut Street, Green Bay, Wisconsin.

Present: Chair Lund, Supervisor Erickson, Supervisor Moynihan, Supervisor Hoyer, Supervisor Sieber, Supervisor Van Dyck, Supervisor Buckley
Also Present: Supervisor Tran, Supervisor Deslauriers, Supervisor Landwehr, Supervisor Brusky, UW Extension Director Judy Knudsen, Corporation Counsel Dave Hemery, Director of Administration Chad Weininger, Internal Auditor Dan Process, Public Defender Jeff Cano, other interested parties

I. Call meeting to order.

The meeting was called to order by Chair Tom Lund at 5:30 pm.

II. Approve/modify agenda.

Motion made by Supervisor Moynihan, seconded by Supervisor Sieber to take Item 11 following comments from the public and approve as modified. Vote taken. MOTION CARRIED UNANIMOUSLY

III. Approve/modify Minutes of September 10, 2018.

Motion made by Supervisor Erickson, seconded by Supervisor Van Dyck to approve. Vote taken. MOTION CARRIED UNANIMOUSLY

Comments from the Public – None.

Although shown in the proper format here, Item 11 was taken at this time.

1. Review Minutes of:

- a. Benefits Advisory Committee of August 30 and September 20, 2018.**

Motion made by Supervisor Hoyer, seconded by Supervisor Sieber to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

Legal Bills

2. Review and Possible Action on Legal Bills to be paid.

Motion made by Supervisor Moynihan, seconded by Supervisor Hoyer to approve the legal bills. Vote taken. MOTION CARRIED UNANIMOUSLY

Communications

- 3. Communication from Chairman Moynihan: For your consideration, I ask for your approval to refer the following change to Ordinance No. 2.14(17) to Corporation Counsel to research the legalities of this request and bring back those findings at another time. I find the present ordinance in bad form particularly, where a Supervisor possesses the ability to request reconsideration of their respective vote and/or that of the entire county board by utilizing the twenty-four hour public notice rule from one month to the next.**

BROWN COUNTY CODE 2.14 (17) It shall be in order for any member on the prevailing side to move for a reconsideration of the vote on any question on the same day or to give written notice to County Clerk by 4:00 p.m. of the day prior to succeeding no later than seven (7) business days following the previous regularly scheduled County Board meeting of his/her intent to move for reconsideration at such the next County Board meeting. If notice is not given in this manner, the matter shall not be subject to reconsideration. A motion for reconsideration shall not be accepted by the Chair unless it can be determined that the person making the motion had voted on the

prevailing side. Any motion for reconsideration must be adopted. Motion to refer to Corporation Counsel to bring back to the next regularly scheduled Executive Committee meeting.

Supervisor Moynihan noted there is a resolution related to this at Item 12.

Corporation Counsel Dave Hemery commented that under Roberts Rules of Order, the default position for a reconsideration motion is that it has to be made by the end of the meeting and if it is not made by the end of the meeting, it cannot be made. The current ordinance on this in Brown County is that a reconsideration of a Supervisor's own vote or the entire vote can be filed up to 24 hours before the next County Board meeting. The reason Roberts Rules only allows the reconsideration to be made by the end of the meeting is to give finality. Otherwise, any actions taken by the County Board are subject to a whole new vote at the next County Board meeting. What Supervisor Moynihan is proposing in this communication is reasonable middle ground.

Moynihan said he chose 7 days because the County Executive has 6 business days for a veto. The argument from the Board floor is that new information can come into place, but Moynihan does not want things held in limbo for a month until the next Board meeting. Reconsiderations do not happen often, but he would like to take care of it before it becomes a pattern.

Motion made by Supervisor Moynihan, seconded by Supervisor Brusky to refer this to Item 12. Vote taken.

MOTION CARRIED UNANIMOUSLY

4. **Communication from Supervisor Tran re: For Corporation Counsel to draft an ordinance prohibiting corporate welfare or providing direct taxpayer funded subsidies to for-profit corporations. Referred from September County Board.**

Supervisor Tran and Supervisor Deslauriers addressed the Committee. With the County being at the levy limits, Tran does not feel it is appropriate to give subsidies, tax breaks or handouts to corporations as that money could be better spent on things like social service programs, better roads and schools. It is her opinion that corporate welfare undermines both capitalism and democracy and is one of the biggest threats to a fair and free economy. She would like to hear from Director of Administration Chad Weininger as to how this would affect the County.

Supervisor Buckley arrived at 5:38 pm.

With regard to the \$5.3 million dollar consideration to Green Bay Packaging, Supervisor Deslauriers said the only reason he voted in favor of it was that he felt like the Board was strong-armed with the 1,100 jobs at stake. This was not a bailout; it was a payment to a profitable business and a wealthy family. He is seeing this more and more in the normal course of business and it seems like it is now considered good business for companies to come to the government to get a tax break for their development and he feels we need to start somewhere to eliminate that. Deslauriers continued that the money given to Green Bay Packaging by the County negates all the philanthropy the Kress family did and he would rather not see government in this business. He is here to support Tran in her communication and he likes the concept and the effort on her part.

Chair Lund mentioned TIF districts and noted the County has to be a party and sign off on them and any that would have to do with businesses would fall under this. Director of Administration Chad Weininger said economic development is extremely important to the County as that is how we get our net construction and fund operations. He does not feel Tran's intent is to eliminate TIF and anything that is drafted would have to reflect that and say that no levy funded dollars can be used for direct payment for corporate welfare. Weininger continued that sometimes the County will move up road projects, for example, if a large employer is coming in and the street needs to be widened to accommodate the associated traffic, but that is not really corporate welfare. Weininger also mentioned that under home law, the County can only do things that are authorized by the State and although the County probably does not have the authority to give direct levy dollars to a business, having that in ordinance form would be helpful.

Tran is not comfortable with corporations coming into the County and saying they need to be given money or they will go somewhere else. Other than Green Bay Packaging, Buckley asked if there are other instances where this has happened. Weininger does not know of any checks given to a specific company and noted the money given to Green

Bay Packaging was meant for infrastructure because the TIF that was there did not support it and there was a real risk of them leaving. Tran said what she is asking for is more of a preventative measure than anything else and she does not want to see the County's hands tied again to be in a position to give money we do not have to corporations. She pointed out that small businesses fail all the time and they are not coming to the County to ask for money and she feels it should be the same for corporations. It is becoming a habit with companies like Fox Conn and Kimberly Clark and other companies. She is protecting taxpayers and she does not want taxpayers to have to give out money to corporations.

Hemery's position is that counties in Wisconsin cannot give direct funds to corporations. The resolution with regard to Green Bay Packaging was in reference to the redevelopment of the Fox River papermaking corridor which benefits Green Bay Packaging, but also other entities that are part of that corridor. Last year the Attorney General issued an opinion after a county gave funds to a homeless shelter that said a county cannot give funds. This is because cities and villages can do anything that is not prohibited by the State Constitution or Statutes, but counties can only do things that are specifically authorized in the State Constitution or statutes. There is not authority in the statutes for counties to cut a check to corporations. Hemery understands Tran's desire for this and said it may be easier in the future if a corporation comes to the County looking for funds to say there is an ordinance in place that prohibits that.

Motion made by Supervisor Sieber, seconded by Supervisor Hoyer to refer to administration and bring back in December. *No vote taken.*

Supervisor Erickson noted Human Services gives a lot of money to different organizations and he feels we need to be very careful here so those things are not cut off. Weininger said those are currently being reviewed. Lund noted those organizations have to provide programming to the County and account for how the funds are used; they are not just given direct payments.

Van Dyck agrees with Tran in that he does not want to see contributions made to companies out of the general fund and he would not have supported that for Green Bay Packaging or anyone else, however, he feels it is the impotence of each Board to make those decisions. He disagreed with Deslauriers that the Board was being strong-armed with the Green Bay Packaging situation because everyone gets their vote. He also commented on the Green Bay Packaging situation and their threats to leave the community and he said that is a real concern and it is a reality because there are numerous other communities and states that do offer incentives. He questioned what was being referred to administration and said he does not like to refer things when we do not know what we are asking them to do. If we are asking for a resolution that opposes any type of corporate funding out of the general fund, that can be voted on tonight without wasting time sending it back and having it brought back to the Committee again to talk about and decide if we support it or not.

Buckley said this type of thing has not been a problem as long as he has been on the Board. With regard to the Fox Conn example, that does benefit Brown County and it is good for Brown County because we need to get all the jobs and people moving into the County we can in order to get more money in the budget. We cannot keep tapping the same taxpayers we have been tapping; we need to get more revenue coming into the County, cities and villages throughout the County and we will not be able to do that without having more jobs in Brown County. He does not want to put the County in a position where a few years down the road something comes up that could benefit from a partnership with the County and have it not be able to be done because of a resolution. He also agreed with Van Dyck in that there are 26 people on the Board who have a vote and each situation should be looked at individually. He feels we need to be careful how we restrict ourselves.

Van Dyck agreed with Buckley in that it is probably not a good idea to draft something so narrow that it becomes a moot point down the road. Moynihan pointed out that this is already the law at the State and Lund does not see a need to reiterate in our ordinances what is already the law.

Motion by substitution made by Supervisor Erickson, seconded by Supervisor Buckley to receive and place on file. Vote taken. Ayes: Erickson, Buckley, Van Dyck, Moynihan, Lund Nay: Sieber, Hoyer MOTION CARRIED 5 to 2

5. **Communication from Supervisor Tran re: For Corporation Counsel to draft a lobbyist registration ordinance that would require any individual or for-profit business that hires someone to influence County Board actions to register**

with the County Clerk, that registration be made part of the public debate so residents know who is being lobbied, a statement of who is paying the lobbyist to lobby, and how much the lobbyist is being paid, who they lobbied and provide penalty for non-compliance. Referred from September County Board.

Tran asked this communication be held for 60 days to allow her time to consult with Corporation Counsel.

Moynihan said this is a provocative communication and he is interested in the fruits of the discussion. Buckley asked why this is only for for-profit businesses and not non-profits. Tran responded that when there is money involved, people tend to be a little more corrupt and she wants to stop that. She wants to have a very open and transparent government and feels people need to know who is being paid and who is lobbying which Board members to make decisions on certain issues. Lund noted there are lobbyists for for- profits as well as non-profits and he feels this should apply to both for-profits and non-profits.

Tran said as elected officials, we answer to taxpayers and taxpayers deserve to know who is being lobbied, what they are being paid and what is being done. Lund said there could be any type organization lobbying the Board and he would like to know when we have these issues and members of an organization speak and lobby that they are registered lobbyists so the Board knows exactly why they are coming. Van Dyck supported what Buckley said earlier that this needs to include everyone and noted that there were people at the marijuana meeting representing various interest groups that were getting paid.

Motion made by Supervisor Moynihan, seconded by Supervisor Sieber to hold until the regular December Executive Committee meeting and include non-profits as well as for-profits. Vote taken. MOTION CARRIED UNANIMOUSLY

6. **Communication from Supervisor Brusky re: That Brown County Corporation Counsel draft a resolution to state legislators that asks for adequate funding of Public Defenders in the Public Defender's Office through legislation and/or in the state budget. Referred from September County Board.**

Supervisor Brusky and Regional Attorney Manager Jeff Cano of the Public Defender's Office addressed the Board.

Brusky said the shortage of assistant district attorney's in Brown County and the rest of the State is well known and there is also a constitutional crisis going on with public defenders. The Sixth Amendment to the Constitution guarantees those charged with crimes the right to a speedy public trial by jury, the right to confront accusers and the right to the assistance of counsel. In 1963 the US Supreme Court established that the government must provide counsel if a defendant cannot afford it and other cases have established that the assistance must be effective, not merely a lawyer appearing unprepared for a defendant. The State Public Defender often provides representation to indigent defendants using certified private attorneys who are reimbursed at the nation's lowest hourly rate of \$40 per hour which was set by the legislature in 1995 when the rate was reduced from \$50 an hour. In 2013 the Wisconsin State Bar survey determined the average overhead rate in Wisconsin is \$41.79 per hour to operate a small law firm. The \$40 paid to public defenders does not fairly compensate lawyers representing indigent clients, making it more difficult to procure representation. The lack of representation for indigent clients causes a backlog in the criminal justice system, leads to longer pretrial periods of detention in county jails as well as inefficiency for courts and slower justice for victims creating a burden on the courts in Wisconsin counties.

The resolution being proposed would be asking the Wisconsin legislature to provide adequate resources to the State Public Defender's office for representation of indigent clients by increasing the rate of reimbursement for assigned attorneys to a market rate that will ensure prompt appointment of counsel with the rate index to inflation.

Cano introduced himself and said he is the Attorney Manager for the Green Bay region which has 13 lawyers and serves Brown, Kewaunee and Door County. There are also offices in Appleton, Shawano and Peshtigo in the region. Cano wants to make the Board aware that there are about 20 other counties in the State who have authored resolutions similar to what is being asked for tonight.

Cano explained they try to keep the non-conflict cases in-house, but there are a number of cases that need to be farmed out to private attorneys for conflict reasons. The list of attorneys who are willing to take cases has decreased and they sometimes make 200 calls on a case to places like La Crosse, Milwaukee and other areas to find someone to

take a case. This results in a cost to the County because when someone appears in court without an attorney, the case gets adjourned until an attorney is found and the person can remain in jail all that time. Some judges also appoint attorneys at County expense asking the public defender's office to reimburse a portion of that, but there is still a portion the County has to subsidize. This is not really a County cost and the person qualifies for a public defender. Some counties try to recoup the money, but the person already qualifies for a public defender so the likelihood of being able to recoup funds is probably very low.

Cano continued that in a misdemeanor case, the defendant can pay \$60 within 60 days, but after that it goes up to \$240 and they have a hard time recouping that. If the counties are going to incur that expense, it would take a long time to recuperate the funds. He also noted when cases are being adjourned because someone does not have an attorney, it affects victims' rights and victims want the process to go forward, but it cannot move forward until there is an attorney representing the client. There are also people who have legitimate defenses that they are unable to exercise because they do not have an attorney. He thanked the Committee for hearing his concerns and noted that this is at a crisis level. This is another cog in the jail overcrowding conversations as it does have an impact on that.

Buckley asked Cano what dollar amount he is looking for. Cano responded that the court appointed rate is going from \$70 to \$100 an hour and he thinks the public defender break even rate at this time is \$70. Cano is hopeful they could get attorneys to take on cases at that amount. Buckley asked if Cano has seen any movement at the State level on this and Cano reiterated that about 20 counties have already passed similar resolutions to what is being asked for. There are counties in northern Wisconsin that do not have any attorneys and those counties are actively supporting this. Buckley said it would be helpful for a package to be put together between the District Attorney's Office and Public Defender's Office with an actual dollar amount to present to the people in Madison for consideration because without a fiscal impact, it is not likely there will be much support. Lund agreed and said sending a resolution to Madison without numbers as to the impact is just a feel good thing.

Van Dyck is in support of this, but feels sometimes when resolutions are drafted they are too vague and disconnected from the County's own issues and he feels legislators may feel the County is sticking their nose in places where there is no impact so providing information as to the specific impact on Brown County would be helpful. He asked about the difference between a court appointed attorney and a public defender. The court appointed attorneys are for people who make too much money to qualify for a public defender, but not enough to afford a retainer for a private attorney.

Cano said he does not know the exact numbers, but he assured the Committee there is a shortage of attorneys that will take public defender cases at \$40 an hour because they are losing money. He feels a resolution would send a message to the legislators that this is something Brown County supports and noted there are many district attorney offices throughout the State who are also supporting this. We are at the point where when the fees go up to \$100 for court appointed cases, there will be attorneys who will not take public defender cases and that has the potential to shut down the system. Attorneys will wait for the case to come in at \$100 an hour. Van Dyck is pushing for the numbers because it comes down to dollars and cents and he feels when the legislators start to weigh this, having the numbers is going to be very important.

Erickson also spoke in support of this. He agreed with Buckley and Van Dyck with regard to the numbers and felt the \$70 range is where we should be looking as it is the break-even point and it should be included in the resolution. He does not feel a resolution should be hurried along and mailed out; he feels we need to wait until everything is back in session so it gets to the right people. Erickson also said the resolution should contain language that we request the State pay this. He feels we are real quick to act and refer this to Corporation Counsel, but he is already very busy and maybe someone else can do some of the legwork on this because there will need to be a lot of contacts made and information gathered to get to the facts. Erickson also noted that if there are extra public defenders, we will also need more district attorneys to prosecute the cases and he feels that should also be included in the resolution.

Brusky informed she had the opportunity to talk to Attorney General Brad Schimel who said he was working on a package deal with public defenders, assistant district attorneys and the courts and that counties are doing fine with their resolutions for public defenders. One of the reasons she brought this forward is because Brown County does not yet have a resolution. Brusky also said she has reached out to the WCA regarding the assistant district attorneys and she was told Brown County should be working on this as soon as possible because the legislators will be getting

their ducks in a row this summer to figure out what they will be working on when they go back into session. Brusky feels we need to send this right after the elections so the legislators know we went some action when they get in session in January. With regard to the impact on Brown County, because the public defender rate is so low, the lowest in the nation, attorneys are waiting until they are court appointed to represent the indigent clients. The Supreme Court decided in May or June they would raise the rate for court appointed attorneys to \$100 so the attorneys are not going to take the public defender cases at \$40 an hour when they can just wait to be court appointed for \$100 an hour. Brusky received figures from the Clerk of Courts that indicate the increase from \$70 to \$100 per hour for court appointed attorneys will cost between \$150,000 - \$200,000 which will have to be absorbed by the County. If the legislature, either through budget or through legislation, changes the public defender rate to a higher amount, it will be less likely that attorneys will wait to be court appointed and therefore the County will not incur that cost.

Cano added that the Supreme Court has ordered the counties to increase their rate to a minimum of \$100 per hour starting in 2020. When that happens, there will not be attorneys taking public defender cases at \$40 an hour. If attorneys do not take cases, the system will fall apart and the judges will have to appoint attorneys at \$100 an hour. Lund said the Supreme Court should have said the legislature needs to take this up and increase the pay because the court system is supposed to be paid for by the State. He feels the resolution should include language that all court costs have to be borne by the State and not the County because it is a State program. The County already bears the cost of putting people in jail.

Van Dyck noted we already did a resolution regarding district attorneys and asked if Brusky would be agreeable to combining the two ideas together and say we need a rate change for public defenders and then that we also need more district attorneys. From a timing standpoint, he feels this should be put together and come back to the Committee for approval in January and then have it sent to the State right away at the beginning of the new session.

Motion made by Supervisor Van Dyck, seconded by Supervisor Buckley to refer to Corporation Counsel to draft a resolution to increase public defender rate to \$70 per hour and include fiscal impact to Brown County and bring back to the December Executive Committee meeting. Vote taken. MOTION CARRIED UNANIMOUSLY

Resolutions, Ordinances

7. Resolution Approving Changes to the Brown County Health Insurance Plan During the 2019 Calendar Year.

Weininger informed this resolution will be taken up at the Executive Committee budget meeting as it still has to go to the Administration Committee.

Motion made by Supervisor Buckley, seconded by Supervisor Erickson to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

8. Resolution regarding Changes to the Health and Human Services – Community Services – Behavioral Health Division Table of Organization.

Motion made by Supervisor Moynihan, seconded by Supervisor Hoyer to approve. Vote taken. MOTION CARRIED UNANIMOUSLY

9. Resolution regarding Changes to the Health and Human Services – Community Treatment Center Table of Organization.

Motion made by Supervisor Hoyer, seconded by Supervisor Van Dyck to approve. Vote taken. MOTION CARRIED UNANIMOUSLY

10. Resolution regarding Changes to the Medical Examiner Department Table of Organization.

Motion made by Supervisor Buckley, seconded by Supervisor Moynihan to approve. Vote taken. MOTION CARRIED UNANIMOUSLY

11. Resolution regarding Changes to Secretary II and 4-H Coordinator Positions in the UW-Extension Table of Organization.

Motion made by Supervisor Moynihan, seconded by Supervisor Erickson to approve. Vote taken. MOTION CARRIED UNANIMOUSLY

12. An Ordinance to Amend Chapter 2 (County Board of Supervisors) of the Brown County Code of Ordinances by Amending Section 2.14(17) (Regarding Reconsideration).

Motion made by Supervisor Moynihan, seconded by Supervisor Van Dyck to approve. Vote taken. MOTION CARRIED UNANIMOUSLY

Internal Auditor

13. Board of Supervisors Budget Status Financial Report (Unaudited) & Veterans Recognition Subcommittee Budget Status Financial Report (Unaudited)

Internal Auditor Dan Process mentioned there were some charges that came through the Board office that were incorrect and he is working with administration on this. The inaccuracies were related to P card transactions that were incorrectly coded. He will keep the Committee updated on this.

Motion made by Supervisor Moynihan, seconded by Supervisor Buckley to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

14. Status Update: September 1 – September 30, 2018.

Motion made by Supervisor Buckley, seconded by Supervisor Moynihan to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

Corporation Counsel

15. Budget Status Financial Report for September 2018.

Motion made by Supervisor Buckley, seconded by Supervisor Moynihan to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

16. Corporation Counsel's Report.

No report; no action taken.

Department of Administration & Human Resources

17. Update and information regarding options that were stricken in September of 2018 from the *Resolution Approving Health Insurance Plan Related Changes During the 2018 Calendar Year*.

Weininger informed the resolution at Item 7 will replace this resolution and will be presented at the next Executive Committee meeting.

Motion made by Supervisor Buckley, seconded by Supervisor Moynihan to receive and place on file. Vote taken. MOTION CARRIED UNANIMOUSLY

18. Human Resources Report.

In looking at the Brown County turnover report, it was noted that the County was trending high in 2015 and 2016, but those numbers dropped in 2017 and were down further in 2018. The adjustments that have been made in the past are working. Weininger also mentioned the class and comp and reported they have run some numbers through Payscale and compared figures for the five counties that surround Brown County. Meetings will be held with

department heads to go over the numbers and Weininger is hopeful some adjustments can be made during the budget process, especially in some of the higher turnover areas. He noted that no matter what is done, there will likely still be concerns from some employees and said in looking at the numbers they are finding that there are almost as many people being overpaid as there are being underpaid.

**Motion made by Supervisor Erickson, seconded by Supervisor Hoyer to receive and place on file. Vote taken.
MOTION CARRIED UNANIMOUSLY**

19. Director of Administration's Report.

Weininger updated the Committee on the expo center project and informed things are moving quickly. RFP responses have been narrowed down and interviews have been done and a selection has been made for the engineering portion and a decision will likely be made soon for the architectural portion of the project. He also reminded the Committee that there will be two public listening sessions regarding the project.

Weininger also talked about a new tool through POLCO which is a type of social media survey tool. There is a cost to this, but it may be a good tool and he is trying to gauge the interest of the Board. The program could be tried out for about six months for around \$4,000. It is a cloud based system and questions can be tailored to people in a specific district and pertain to certain issues. Van Dyck would rather see funds used towards Granicus first.

**Motion made by Supervisor Erickson, seconded by Supervisor Hoyer to receive and place on file. Vote taken.
MOTION CARRIED UNANIMOUSLY**

County Executive

20. County Executive's Report.

No report; no action taken.

Other

21. Such other matters as authorized by law. None.

22. Adjourn.

**Motion made by Supervisor Erickson, seconded by Supervisor Moynihan to adjourn at 7:01 pm. Vote taken.
MOTION CARRIED UNANIMOUSLY**

Respectfully submitted,

Therese Giannunzio
Administrative Specialist