

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 9, 2017 in Room 200 of the Northern Building, 305 E. Walnut Street, Green Bay, Wisconsin.

Present: Chair Lund, Supervisor Hoyer, Supervisor Erickson, Supervisor Moynihan, Supervisor Van Dyck, Supervisor Schadewald, Supervisor Buckley
Also Present: Internal Auditor Dan Process, Schenck Representative Dave Maccoux, Human Resource Director Kathryn Roellich, Corporation Counsel Dave Hemery, Finance Manager Dave Ehlinger, Director of Administration Chad Weininger, Supervisors Becker, Ballard and Lefebvre, other interested parties.

I. Call meeting to order.

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

II. Approve/modify agenda.

Motion made by Supervisor Moynihan, seconded by Supervisor Schadewald to modify the agenda to take Item 9a following Item 2c and refer Items 7, 12, 13 and 14 back to the November Planning, Development and Transportation Committee meeting. Vote taken. MOTION CARRIED UNANIMOUSLY

III. Approve/modify Minutes of September 11, 2017.

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

Comments from the Public. None.

1. Review Minutes of: None.

2. Internal Auditor Report

a) Presentation of the 2016 Comprehensive Annual Financial Report (previously distributed), Federal Awards and State Financial Assistance Report and Management Communications (to be distributed prior to the meeting) by David Maccoux, Schenck, SC.

David Maccoux of Schenck reviewed the 2016 CAFR, Federal Awards and State Financial Assistance Report and Management Communications with the Committee. The CAFR is the County's record of financial activities and results of operations for the year ended December 31, 2016. One of the key documents is the Independent Auditor's Report contained on Pages 7 – 8 of the CAFR. This outlines the financial statements contained in the report and indicates the documents came directly from the financial statements and general ledger the County maintains. The responsibility of Schenck is to review the documentation and issue an opinion which is set forth on Page 7. Schenck's opinion is that the financial statements present fairly in all material respects.

The next component is the Management's Discussion and Analysis which is set forth on Pages 9 - 21. This section is required to contain various documentation of what happened in 2016 along with a comparison to the prior year.

The Government Wide begins on Page 22 of the CAFR and reflects all assets and liabilities of the County as well as inflows and outflows. It shows a breakdown of government activities and business type activities. The total assets are about \$615 million dollars and Maccoux informed many of these assets are embedded and roads and buildings. The last category in this report is net position and this indicates that of those assets, the County owns about \$381 million dollars.

Maccoux continued that one of the big changes that occurred in 2016 compared to the prior year is that in 2015, which reflects the 2014 balance, the County reported an asset which means that WRS was overfunded at that time. For the current year, a \$9.2 million dollar liability is being recorded which is the County's share of the unfunded portion. This means that the system as a whole went from fully funded to unfunded for a small portion of the liability and the County, as all other governments in the State, reported a liability. This does not affect the cash outflow that the County made and it does not have any impact on managing operations and is basically a book entry. He wants the Committee to know that the County has made all of their obligations and is not required to make the payment; it just means that in the future it is going to convert. As with any pension system, the County is very reliant on investment returns and in 2015 the investment market was not very good. The system internalizes a 7.2% rate of return on investments so it was projected to earn about \$6.7 billion dollars, but it actually turned into about a \$500 million dollar loss. Maccoux said overall there was about a \$1 million dollar increase in the net position.

The second document Maccoux talked about was the Management Communications. Key information is summarized in this report along with a number of financial summaries. The first four pages talk about how the audit went from Schenck's perspective. He said the audit went very well and the staff at Brown County was very well prepared and Schenck very much appreciates the cooperation they receive. Pages 5 – 7 contain an analysis of the general fund and government fund balances. There was a slight decrease in the general fund from about \$35.5 million to about \$34.7 million dollars which is still a very strong position going into the 2017 budget year. Overall the governmental funds total about \$65.6 million dollars. Page 6 breaks the general fund down into the different components that relate to the spending constraints. The largest is the unassigned or uncommitted balance that is used for working capital and the County still maintains a very strong fund balance and has been in the same ratio for the last four years. From Schenck's perspective there are no real concerns regarding the general fund moving forward.

Supervisor Buckley arrived at 5:41 pm.

Schenck does audits for multiple counties and Supervisor Van Dyck asked how Brown County ranks in comparison to other counties from an operations standpoint in terms of the people he works with at Brown County and the processes and procedures. Maccoux responded that they work with about 30 counties of various sizes and he finds the staff at Brown County to be very strong in the financial aspects and very professional and strong and well organized in terms of the personnel they work with.

Maccoux continued that the remainder of the report covers revenue funds and internal service funds. There was a subtle change in the enterprise funds where the focus is more on revenues and expenses and there are comments on each of the funds in the report. Maccoux said the audit went very well and there are no real concerns overall. He noted that last year there were a few findings that were addressed and there were no findings in the 2016 audit that require any type of resolution so the audit was very clean in terms of the County's compliance with federal and state programs.

Motion made by Supervisor Van Dyck, seconded by Supervisor Schadewald to receive and place on file the 2016 Comprehensive Annual Report, Federal Awards and State Financial Assistance Report and Management Communications as presented. Vote taken. MOTION CARRIED UNANIMOUSLY

b) Board of Supervisors Budget Status Financial Report – August 2017 (Unaudited).

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

c) Status Update: September 1 – September 30, 2017.

Internal Auditor Dan Process referenced the auditor services contract/RFP referenced is his status update. Based on the results of those that submitted proposals, the recommendation is to again go with Schenck for the next three years.

Process also referred to the 2018 audit plan and pointed out that one of the initiatives of the Department of Administration is to add an Organizational Development Coordinator and he anticipates working with that individual going forward in 2017. Process added that if there is anything that comes up during the year, the audit plan can be amended to include it.

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

Although shown in the proper format here, Item 9a was taken at this time.

Legal Bills

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

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

Communications – None.

Resolutions, Ordinances

4. An Ordinance Amending Subsection 2.13(4)(h) of Chapter 2 of the Brown County Code of Ordinances. Referred from September County Board.

Moynihan said this was referred back to this Committee from the last full Board meeting. Under the current rules, any closed session language that is included on a Committee agenda must also be included on the County Board agenda and he wants to eliminate that. He feels the Board needs to trust the action at the Committees and these closed sessions do not belong on the County Board agenda as well.

Van Dyck said he heard comments from someone who attended the last Board meeting that the agenda seems confusing when trying to find something. Van Dyck agreed with her. He does not feel discussion items at the Committee level need to be listed on the Board agenda. He feels the full Board agenda should only contain action items from the Committee level. Van Dyck also feels it may be appropriate for any action to be cleared through this Committee before it ends up at the Board level. He said pulling an item from the Board agenda to talk about it when all it was at the committee level was a discussion topic only shows that Supervisors do not need to show up at the Committee meetings because they can pull the item on the Board floor and have the whole discussion over again. If there was not action taken, he does not see any need to have the discussion for a second time.

Moynihan said he and Corporation Counsel are working on crafting language on this to streamline the processes.

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

5. Resolution to Engage American Fidelity as the Brown County Section 125 (Flex Spending Account) Benefits Administrator.

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

6. Resolution re: Reclassification of a Community Treatment Program Worker Position in the Human Services – Community Treatment Center Table of Organization.

Buckley asked for an explanation on this. Director of Administration Chad Weininger explained that Health and Human Services is looking at hiring a higher level case manager and at that rate they can get a higher bill back which would offset the increase in salary. It would be a way to recoup a little more revenue as well as hopefully provide better service at the same time.

Buckley said he has an issue with these types of situations because it seems like at every meeting there are requests for reclassifications. If the policy is going to be to continue to reclassify this way, he will not turn down requests at his Committee but will instead start bringing them forward so people can get raises. Weinger said in the 2018 budget there is a resolution that the Executive Committee will be taking up that outlines a plan to address comp and class and there would also be dollars set aside to address comp and class. The other issue is that when there are openings, department heads are encouraged to look at the vacancy and whether it is the best fit for the department or if the position can be eliminated. In this event, Human Services found they could maximize revenue by increasing the position a little bit and paying a little more. One of the problems in Human Services is that they are not seeing enough revenue recapture and this has been an ongoing problem. This proposal would be a better way to do things and a better way to maximize the revenues of the department; it is not just to give someone a raise; it is an open position, not directed at a certain person, but Weinger said he does understand Buckley's concerns.

Van Dyck brought up something not specific to this situation, but something else for the Board Chair to look at and consider. He noted the explanation Weinger gave as to why this position is needed was quite succinct and summarized and he would like to see a brief explanation like that in Resolutions along with the financial impact rather than all of the whereas' that are in every Resolution. Weinger said the resolutions during the budget process will be somewhat streamlined. Corporation Counsel indicated that there does need to be some history so that documentation is available for historical purposes but they are working on streamlining the documents.

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

7. Resolution Authorizing the Purchase and Sale of Real Estate.

This item was referred back to the next Planning, Development and Transportation Committee meeting under Item II above.

Standing Item

8. Discussion of 2.12 of the County Code of Ordinances: The duties and responsibilities of the EXECUTIVE COMMITTEE. *Held for one month.*

Motion made by Supervisor Van Dyck, seconded by Supervisor Erickson to hold until December meeting. Vote taken. MOTION CARRIED UNANIMOUSLY

Reports

9. Human Resources Report

a. Chapter 4 Ordinance Revision regarding Employment Selection Process.

Corporation Counsel Dave Hemery indicated that HR Director Kathryn Roellich distributed a copy of an Ordinance to Amend Chapter 4, a copy of which is attached, which includes changes that have been discussed at previous meetings. Section 4.29 of the Ordinance contains a sentence that states, "In recognition of the County's efforts to provide all citizens with an opportunity to succeed, it is the policy of Brown County that applicants will not be required to disclose arrest/criminal record history when completing the County's online employment application, unless required by state and/or federal law". This language would effectively "ban the box" from the application form except for positions required by law.

Buckley has concerns regarding banning the box and asked what positions felons would be considered for or even misdemeanors. He feels that to go through the whole hiring process and then do the background check at the end is wasting a lot of people's time if someone is not qualified from the beginning. Roellich responded that if background checks were done at the beginning of the hiring process, the check would have to be done on all candidates and there is a cost associated with this and that is why they only do it when the final candidate is

selected. The way it was, the box only asked the applicant if they have ever been convicted of a felony and did not preclude someone convicted of a misdemeanor or ordinance violation which substantially relates to the position they were applying for so the box was not effective in eliminating the County having to go through the process and then having to move on to the next candidate because they did not pass the background check. This is not any different than doing the interview, picking the top candidate and then doing reference checks and having the references come back bad and the candidate is not hired.

Roellich continued that banning the box is the best practice recommended by the State of Wisconsin as well as across the country. When a felony or misdemeanor would eliminate someone as a candidate is not a black and white situation. The only way in Wisconsin that arrest or conviction information can be used in relation to employment is if it has a substantial relationship to the position for which the person is either employed or is applying for so they have to look at every circumstance. She said they do a lot of research to make sure they understand the circumstances of the conviction and they also talk with Corporation Counsel to ensure the appropriate decisions are made. This would not alter that process. Hemery said that by law, this has to be done on a case by case basis. It is a multi-faceted determination when looking at it and there is not a list of what crimes disqualify someone for a specific position.

Buckley asked who makes the decisions in these matters and Hemery responded that ultimately the courts make the determinations and there is quite a bit of case law where an employer has not hired someone because of a particular conviction and then the court goes through the analysis and looks at all the factors of the job and the conviction to see if they are substantially related and they also look at a timing factor. He said something like fraud would be substantial to an accountant position, for example. Buckley asked if a list could be established from case law. Hemery responded that you could for the particular position the case law pertains to if the County's job description was identical to whatever the job description in the case was and if the conviction was for an identical crime, but this is unlikely as there are different job descriptions as well as different classes of crimes. In addition, charges are often reduced so the initial charge could be something that would preclude employment, but the reduced charge would make someone eligible for hiring. Hemery reiterated it is a case by case situation and for something like someone convicted of a financial crime applying for a financial position is something that would have to be looked at very closely. Buckley asked who would be making the decisions in those situations. Hemery said that HR will make the decisions in consult with Corporation Counsel.

Buckley does not see an issue with someone who has been convicted of a felony having to check a box. For someone who may have had a felony 20 years ago, if they have the opportunity to explain what happened, the process at that point is the same. That person would still be selling themselves and explaining why they should be hired. If someone steals or commits a felony, Buckley feels part of being convicted is being labeled a felon and they would then need to explain why we as a County should hire them. The mistake may have been made 20 years ago, but it will stay with them. He does not understand why we would have to change our policy on this.

Hemery recalled that when he applied for his job with Brown County, he noticed some areas of the application that struck him as odd. During his first few weeks on the job he reviewed the application to be sure that it was in line with best practices. He looked at the State's best practices, federal best practices and DOJ and DILHR best practices and one of the consistent things he discovered was that best practices were to ban the box. Hemery then sent his findings to former Interim HR Director Pete Bilski. Nothing was done at that time, but when Roellich was hired as HR Director, she reviewed Hemery's findings and then acted upon them and that is how this came up.

Buckley does not see how banning the box will help anyone. He said without the box, the County will spend all sorts of time leading the person along, but then when the background check is done they would be weeded out. Roellich disagreed and said when jobs are announced and posted, it is disclosed to the candidates that they have to sign a release for background check. Applicants are given notice up front, even if it is not disclosed on the application that at some point in the process a background check will be done. Buckley directed attention to Section 4.25 where it states, "Brown County provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, gender, including transgender or gender identity

status, sexual orientation, national origin, age, disability, genetic information, marital status, arrest and conviction record . . . ” Roellich said the Wisconsin Fair Employment Act requires that the County not discriminate based on arrest and conviction. She said they have to make the determination if there is a substantial nexus to what the arrest and conviction history is as relates to the position.

Buckley also referenced Section 4.28 where it talks about job posting and asked if these postings are made with input from the Department Heads, County Executive or some other oversight. Roellich said HR works in conjunction with the Department Head and before a vacancy can be posted or filled, it has to be approved by the Director of Administration and the County Executive. The process is that the Department Head submits a request to have a position filled; it then goes through the HR Analyst for fiscal impact and review of the position and then is submitted to the Director of Administration for his review and fiscal verification. From there it goes to a vacancy committee which consists of the HR Director, Director of Administration and County Executive. The position and the need for filling it is discussed and if it is approved they move forward with the job announcement. Buckley just wanted to be sure that there are more people involved in the process than just the HR Director given past problems with the HR Department. Roellich understood this and agreed there is always a need for checks and balances.

Moynihan said from a legal perspective, this is the right thing to do because it will help ward off any possible litigation by an applicant.

Supervisor Erickson said he does not like getting documentation at the meeting instead of ahead of time. Since he has not had to time review this, he will abstain. Roellich noted that this information was brought forward in prior months and what she handed out tonight is exactly the same as it was other than putting it in the proper format for submission.

Supervisor Schadewald said Roellich explained all this very well at Administration Committee. He has done some further research on this with the EEOC and found the following, “Federal law does not prohibit employers from asking about criminal history but federal EEO laws do prohibit employers from discriminating when they use criminal history information.” Schadewald does not want to hear from the Board that they want the box on the application so we do not have to hire people who check it because that would result in big trouble. HR has a good policy and procedure that has been outlined by Roellich and he feels comfortable supporting this. He also said the State of Wisconsin and a lot of counties and States have banned the box and if this is becoming the new best practice, which it appears to be, he does not have any problem because we have the checks and balances as we move through the process. He is not saying this is a safety valve that will save us every time, but he likes how things are spelled out in the ordinance so that the policies and procedures are done consistently in the future.

Supervisor Schadewald was excused at 6:10 pm.

To Supervisor Erickson’s point of not being able to review this information prior to the meeting, Van Dyck noted that changes have been made to the nepotism portion of the ordinance. Roellich responded that those changes were made based upon the conversation at the last Executive Committee meeting. Van Dyck said he has issues with being presented with a document making policy changes at the meeting and then voting on it without having time to thoroughly review it. He also does not like the way this item was listed on the agenda. He feels that the agenda item of “Chapter 4 Ordinance Revision regarding Employment Selection Process” was somewhat buried under the HR Report and does not include language of *discussion and possible action* and he feels this is rather open ended and does not provide the public with proper notice that action was going to be taken at this meeting.

Van Dyck asked if the box is on the application, and a perspective employee checks the box, what the hiring manager can do with that information. Roellich responded that nothing can be done. Van Dyck said then it would be discriminatory to set the application aside because the box is checked. He understands the intention of this and he also understands the risk of being sued, but to him it is no different than seeing a Hispanic or Afro American name and not being able to discriminate against the application solely based on the name recognition. Roellich agreed. Van Dyck said a hiring manager also cannot discriminate based on a college someone attended or

information that was seen on Facebook. These things are not right, but that does not mean that they do not happen, and simply taking the box off the application is not going to stop those other situations from occurring and none of them are right. He understands it is discriminatory, but if the box is checked or not should not make any difference in the hiring process, just like the name should not make any difference, or the age should not make any difference or anything else. He feels this is more of a feel good thing than anything else.

Roellich feels this is something that intrinsically should not be on the application and it is a best practice to not have it on the application. She is not doing this as a feel thing good. She acknowledged that not everything Van Dyck referenced can be avoided, but if we can eliminate one opportunity for issues, she feels it is the right thing to do. Hemery said if he was an attorney on the plaintiff's side in an employment discrimination case when someone says they checked the box, he would ask for any and all applications and look at the history of who has applied. If it could be shown that in all the years the box has been on the application the County has never hired anyone who checked the box, it would be a powerful piece of evidence. Hemery also agreed with Van Dyck in that you cannot eliminate everything, but the box has been something that has resulted in litigation and can have a persuasive effect in litigation. He said his personal legal opinion is that it would be good to reduce the liability and remove the box.

Van Dyck talked next about Section 4.40 regarding nepotism and in particular 4.40(2). The language bothers him a little bit in the sense that to him the language seems backwards in that maybe it should be reviewed, but the norm should be that the transfer is going to go through. He is having a hard time understanding when that would become an issue. In the company he works for, they previously had in their handbook that they would not employ family, but they were advised to remove that because it is not legal. He feels the predominant assumption should be that hiring family is going to happen, unless there is some reason why it cannot happen. Hemery responded that nepotism policies in general is that you do not have family members working for each other, but there can be exceptions and they are attempting to build an exception into County policy but he noted that this is something that the County Board would have the final say on. Hemery said previous language was that family could not work in the same department, but from discussions at the previous Executive Committee meeting, it was indicated that what was desired was that the rule of thumb be no nepotism, but there could be exceptions when appropriate.

Supervisor Becker spoke to Van Dyck's point about discriminating and things like looking applicants up on Facebook and said there are steps that can be taken to remove some of the prejudice and he feels it is in the best interest of the County to do that. He referenced a recent news article about a company that was sued because their ad included wording that no felons should apply. He does not know how having the box on the application would help someone with a conviction in any way, shape or form. The County will find out about it during the background check. He said it was indicated that the box will give the applicant the opportunity to explain the circumstances of their conviction. He disagrees and said what would help them explain what happened would be to let them get in front of a hiring manager to explain. He said there are 40 – 80 applicants for every job posting and unfortunately it would be very easy for a hiring manager to go to the next application if the box is checked. He does not agree that having the box would open up doors for people; he feels the door would be opened up by having the box removed because the applicant could get in front of someone and explain what happened with as little prejudice as possible. Becker said it is his opinion that removing the box is the right thing to do.

Supervisor Ballard said he looks at this two ways. One is the equity piece and as Wisconsin is trying to market itself as the new north and have people move here, what may be a felony elsewhere may not be a felony here. From the economic point of view, any time the hurdles for applications can be reduced, we get a wider swath of applicants which will help bring more qualified candidates to hire. Having a smaller pool of qualified applicants could result in the County having to pay more than the going rate to hire staff to get someone with the qualifications we need.

Supervisor Lefebvre said she is more practical and she would like to see HR inform applicants that they will do a background check, but if there is something in the applicant's background that they have qualms about, that HR will sit down with them and talk about it. She said that people need to be given a second chance and need to make a decent living to avoid ending up back in jail.

Van Dyck indicated he will abstain tonight based on the fact that the document was just passed out at the meeting. He may support this because of the liability perspective and the case Becker referenced. He said they had a similar situation at his job where someone from New York did not like the ad for the position, and then applied for the position and then filed a complaint with the State because the ad referenced something he did not like. He feels that the case Becker referenced was probably similar and someone simply saw an opportunity to stick it to someone because of what was stated in their ad. So from that standpoint that this may take some liability away from the County, he would agree but noted that from the discrimination standpoint, he disagrees.

Erickson talked about nepotism and said he is not fond of nepotism restrictions. If those were eliminated, the job pool would increase and the County would have more access to many more potentially good candidates.

Motion made by Supervisor Schadewald, seconded by Supervisor Hoyer to approve the Ordinance changes to Chapter 4. Vote taken. Ayes: Lund, Moynihan, Hoyer Nay: Buckley Abstain: Erickson, Van Dyck. MOTION CARRIED 3 to 1

10. Department of Administration Report

Director of Administration Chad Weininger informed that the Wisconsin Taxpayers Association has named Brown County as one of the fastest growing counties. He also noted that the Executive Committee will hold a special meeting before the next County Board meeting for bond refunding. It is very substantial and will help reduce the amount of levy put towards debt service in the 2018 budget. This will also change the overall debt reduction plan in that it will pay off more debt but the amount of levy offsetting will go down. Weininger will have figures on this available soon.

Weininger also said they are getting close to the levy limits so we need to start thinking about streamlining operations over the next few years.

Weininger also talked about the external auditor report and said the major issues were with highway, dental fund and CTC. The highway concerns will probably not be an issue because it is really about cash flow and as soon as a large piece of equipment is paid off a large amount of cash will be freed up. The larger concerns are the health and dental fund and CTC, but this should not be a shock to anyone.

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

11. County Executive Report

No report; no action taken.

Closed Session

- 12. Open Session: Motion and Recorded Vote pursuant to Wis. Stats. Sec. 19.85(1), regarding going into closed session pursuant to Wis. Stats. Sec. 19.85(1)(e), i.e. deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, in particular, deliberating and negotiating strategy and options regarding buying and selling property for landfill use.**
- 13. Convene into Closed Session: Pursuant to Wis. Stats. Sec. 19.85(1)(g), the Brown County Executive Committee shall convene into closed session for purposes of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, as competitive or bargaining reasons require a closed session here for deliberating and negotiating strategy and options regarding buying and selling property for landfill use.**
- 14. Reconvene into Open Session: The Brown County Executive Committee shall reconvene into open session for possible voting and/or other action regarding buying and selling property for landfill use.**

Items 12, 13 and 14 were referred back to the next Planning, Development and Transportation Committee meeting under Item II above.

Other

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

16. Adjourn.

**Motion made by Supervisor Erickson, seconded by Supervisor Moynihan to adjourn at 6:47 pm. Vote taken.
MOTION CARRIED UNANIMOUSLY**

Respectfully submitted,

Therese Giannunzio
Recording Secretary

AN ORDINANCE AMENDING SECTIONS 4.25 TO 4.40 OF CHAPTER 4 OF THE BROWN COUNTY CODE OF ORDINANCES, AND CREATING SECTIONS 4.401 TO 4.405

THE BROWN COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

Section 1 - Sections 4.25 through 4.40 of Chapter 4 of the Brown County Code of Ordinances are hereby amended, and Sections 4.401 through 4.405 are hereby created, as follows:

EMPLOYMENT SELECTION PROCESS

4.25 POLICY. Brown County provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, gender, including transgender or gender identity status, sexual orientation, national origin, age, disability, genetic information, marital status, arrest and conviction record, amnesty, or status as a covered veteran in accordance with applicable federal, state and local laws. Employment decisions in Brown County shall be based on merit, qualifications, and abilities. Brown County complies with applicable state and local laws governing non-discrimination in employment in every location in which the County has facilities. The County will make reasonable accommodation in accordance with law wherever necessary for all employees or applicants with disabilities, provided that the individual is otherwise qualified to safely and adequately perform the essential duties and assignments connected with the job and provided that any accommodations made do not impose an undue hardship on the County. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation, and training.

4.26 SELECTION PROCESS. The Human Resources Department will coordinate the hiring and selection process for all County employees.

4.27 AUTHORIZATION TO HIRE. Department Heads wishing to fill vacancies in existing budgeted positions shall submit a requisition to the Human Resources Department prior to initiating recruitment. The Human Resources ~~Manager~~ Director/designee shall review and verify the information, provide appropriate comments and recommendations, and forward the requests to the County Executive for final authorization. Monthly, the Human Resources ~~Manager~~ Director shall provide a report to the Standing Oversight Committee and Executive Committee of all vacancies approved and posted.

4.275 VACANCIES. In an effort to recruit the most qualified individuals, to ensure fair employment opportunity and to help in Affirmative Action efforts, the Human Resources Department will coordinate the posting of job opportunities, including both internal and external announcements of Brown County job opportunities. There is no requirement to fill all positions authorized by the County Board. Department Heads are encouraged to continually evaluate their department needs prior to filling open positions.

4.28 JOB POSTING ANNOUNCEMENTS/ADVERTISEMENTS. Existing ~~position vacancies will be posted internally and/or externally when deemed advisable by the Human Resources Department to allow qualified applicants to apply. When the County determines that a vacancy or a new position will be filled, the County, in its sole discretion, may post notice of such vacancy or position. Vacancies may be posted electronically by the Human Resources Department, and may be posted internally and/or externally as determined by the Human Resources Department.~~ There may be circumstances when a department, upon approval from the Human Resources Department, shall post vacancies internal to the department prior to posting to all County employees or to the public. Job

openings which the County chooses to post shall be posted for a minimum of five (5) working days. The County retains the right to determine whether and when to recruit outside applicants.

Job announcements/advertisements shall include the following:

- Notice to applicants regarding the requirement of a criminal background check;
- Special requirements; for example, CDL, State Licensure, etc.; and
- Equal Opportunity Employer

4.29 APPLICATIONS. Prospective employees and employees seeking promotion, transfer, or voluntary demotion shall utilize the County's online application system which is required for all positions. Prospective employees, and employees seeking promotion or transfer, may post a résumé in addition to an application, but a résumé shall not substitute for an application. In recognition of the County's efforts to provide all citizens with an opportunity to succeed, it is the policy of Brown County that applicants will not be required to disclose arrest/criminal record history when completing the County's online employment application, unless required by state and/or federal law. Applicants selected for interviews, however, will be required to consent to a criminal background check in accordance with Brown County policy and state and federal law. The County relies on the accuracy of information contained in the employment application, as well as the accuracy of all other data received from applicants in the hiring process. Any deliberate misrepresentations, falsifications, or material omissions in any of this information may result in the County's exclusion of the individual from further consideration for employment, or, if the person has already been hired, discipline up to and including termination of employment.

~~**4.30 APPLICANT TESTING.** To avoid the practice effect, or gains from having taken the same or similar exams previously, the Human Resources Manager may allow the reuse of an exam score within a twelve (12) month period.~~

4.31 APPLICANT SELECTION. In consultation with the Human Resources Department, the Department Head, Elected Officer or their designee shall determine which applicants meet the minimum qualifications for the position. Qualified applicants shall be referred to the applicable departments for consideration by the Department Head and/or hiring manager. The Human Resource Director may grant departments the authority to schedule and coordinate interviews provided they are trained in the necessary processes.

4.315 INTERVIEWS. Internal applicants interviewing for positions within their current Department shall have their time spent in interviews included as hours worked for the work week. Internal applicants interviewing for positions outside their current Department shall not have their time spent in interviews included as hours worked for that work week and shall not receive compensation for time spent in interviews. An employee applying for work outside their current Department may utilize paid time off for purposes of interviewing.

4.32 INTERVIEW EXPENSE REIMBURSEMENT. Except as provided herein, all applicants invited to participate in the Brown County selection process will do so at their own expense. Applicants may be reimbursed for all or part of reasonable expenses incurred in conjunction with an interview including travel, meals and overnight accommodations ~~as determined by the Human Resources Manager and approved by the County Executive. All reimbursement requests must conform to transportation, meal, and lodging maximums and receipts, upon recommendation of the department head and with the approval of the Human Resources Director and the County Executive.~~ All reimbursement requests must conform to transportation, meal, and lodging maximums and receipts supporting said request must be provided prior to reimbursement.

4.33 SELECTION DEVICES. The Human Resources Department shall be responsible for determining methods to be used to screen applicants for position vacancies. Such methods or devices may include, but need not be limited to the following:

(1) Review of education, training and experience as shown on the application or other supplemental materials.

(2) Practical written or oral tests, work sample or performance tests, if job related.

(3) Physical tests of strength, stamina or dexterity and pre-employment health examination, ~~when~~ if job related. The Human Resources Department shall work with the Sheriff's Department to administer and score Law Enforcement Testing.

(4) Background and reference inquiries.

4.34 CONFIDENTIALITY. ~~Formal~~ To the extent allowed by law, formal selection materials shall be known only to the Human Resources Department staff and other persons they designate on a need to know basis. Every precaution shall be exercised by all persons participating in the development and maintenance of materials to insure the highest level of integrity and confidentiality.

4.35 NOTIFICATION OF CANDIDATES. The Human Resources Manager Director shall determine the proper notice given to candidates. Efforts shall be made to ensure that each applicant competing in the selection process at or beyond the interview stage shall be given written notice of whether or not he/she was selected for the position.

4.36 ELIGIBILITY LISTS. The Human Resources Manager shall have the authority to establish and maintain eligibility lists as may be necessary or feasible. The duration of eligibility lists shall not generally exceed one (1) year with extension possible at the discretion of the Human Resources Manager. Eligibility lists may be terminated if they no longer contain a sufficient number of qualified or interested applicants. A candidate may be removed from an eligibility list at the discretion of the County.

4.37 CONTINGENT OFFERS OF EMPLOYMENT. The Human Resources Department may extend an offer of employment—which may be withdrawn at any time—that is contingent upon the applicant successfully completing a physical examination, drug test, credit verification, or similar post-offer inquiry. No individual will be allowed to begin work with the County until the County has verified successful completion of any required pre-employment testing.

4.38 RELOCATION EXPENSE. When the County fills a FLSA exempt position with an individual who does not reside in Brown County, and upon recommendation of the department head and prior approval of the Human Resources Manager Director and County Executive, the County shall pay the reasonable cost of the relocation, which shall be appropriated as an expense relevant to the Department conducting the hiring process.

4.39 EMPLOYMENT OF MINORS. In limited circumstances, Brown County may utilize minors for staffing purposes, ~~if not prohibited by law.~~ Employment of minors shall be in accordance with all applicable state and federal laws, rules and regulations. The utilization of minors for staffing purposes may only be done with the authorization of the Human Resources Department. When authorized for employment, those applicants, under 16 years of age, will be required to provide a work permit to the Human Resources Department prior to engaging in any work activity.

4.40 NEPOTISM. (1) Unless the Human Resources Director first determines that such employment, promotion or transfer would not be detrimental to the County, no ~~Ne~~ person shall be employed, promoted, or transferred to any department or agency within

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Brown County government or to a division or section thereof when, as a result, he or she would be directly supervising or receiving direct supervision from a member of his or her immediate family or working directly above the relative's immediate superior or directly for the relative's immediate supervisor. Immediate family is defined as wife, husband, father, mother, guardian, sister, brother, children of employees, aunt, uncle, grandchildren, grandparents, father-in-law, mother-in-law, sister-in-law or brother-in-law

(2) Unless the Human Resources Director first determines that such employment, promotion or transfer would not be detrimental to the County, no person shall be employed, promoted, or transferred to any department or agency within Brown County government employment when a member of the person's immediate family is already employed within that department or agency.

~~(3) The Human Resources Manager will determine if such employment, promotion or transfer would be detrimental to the best interests of Brown County.~~

BACKGROUND VERIFICATION

4.401 VERIFICATION OF QUALIFICATIONS. Those employees who are required to have a valid Wisconsin driver's license, commercial driver's license, other license or certification, or a degree to perform their duties, shall provide a current copy of the driver's license, CDL, other license or certification or degree for review, verification, and placement in their personnel file.

4.402 CAREGIVER BACKGROUND CHECKS. The Wisconsin legislature and the Wisconsin Department of Health Services (DHS) have enacted laws and regulations which mandate the completion of background checks on certain caregivers. The County is prohibited from employing as a caregiver, or accepting caregiver volunteer services from, any person who has been convicted of, or has a pending charge for, a serious crime as provided by WI statutes and/or DHS rules. The Human Resources Director is responsible for managing and coordinating all background checks. Prior to an offer of caregiver employment being made, or caregiver volunteer services being accepted, the Human Resources Department shall conduct a caregiver background check in compliance with Wisconsin Statutes and DHS regulations, and the County shall fully comply with all state and federal laws, rules and regulations governing background checks as they exist now or may be amended in the future.

4.403 CRIMINAL BACKGROUND CHECKS FOR NEW AND EXISTING EMPLOYEES. The Human Resources Department or its designee shall conduct a criminal background check on a candidate for employment prior to making an offer of employment. All employees are required to have a criminal background check done prior to employment. Additional background information may be required based on specific requirements of various positions within the County (e.g., law enforcement, TSA requirements, etc.). The County may also be required to conduct continuing background checks for existing employees as required by federal, state and/or local laws, rules and/or regulations.

4.404 EMPLOYMENT REFERENCES. Unless expressly allowed by the Human Resources Director, no County employee shall reply to an Official Reference Check on behalf of Brown County. Requests for reference checks should be forwarded to the Human Resources Department and must be made in writing and include an authorization from the employee prior to the release of any otherwise confidential information. The Human Resources Director may direct the reference check questions to the Department Head or their designee, who shall respond in writing to the Human Resources Director. Confidential information shall only be released after receipt of a valid, signed release of information authorization and at the direction of the Human Resources Director. In the event a reference check is not accompanied by an employee release, the Human Resources Department shall require a release prior to provision of any information other than non-

confidential information such as position, dates of employment and compensation information. This paragraph is not intended to prohibit employees from serving as Personal References, rather it only prohibits employees from providing Official Reference Check responses on behalf of Brown County unless the provisions of this paragraph are complied with in advance. For purposes of this policy, personal references are construed to mean references that do not speak to the candidate's work performance or specific service to the County, but rather the candidate's personal characteristics, educational background, and personal dealings with the referring employee. The referring employee assumes all liability for the content of the personal reference response. Employees found violating this policy shall be subject to discipline, up to and including termination from employment. Employment verification requests shall be referred to the Human Resources Department and include the same authorization requirements as listed above. Payroll and salary verification requests may be sent directly to the Human Resources Payroll Department. No Brown County employee shall contact any potential candidates' current or previous employer without prior approval from the Human Resources Director or designee.

4.405 EMPLOYEE OBLIGATION TO REPORT ARREST AND PENDING CRIMINAL CHARGES. At minimum, all County employees shall notify the Human Resources Department as soon as possible, and no more than three (3) business days after, any employee is arrested and/or becomes aware of having a pending criminal charge. For those subject to continuing Caregiver Background Checks, the notification must occur the next working day after the employee is arrested and/or becomes aware of having a pending criminal charge. This same policy shall apply to all contracted persons and volunteers. Due to the nature of work performed, employees working in the Sheriff's Department or Health and Human Services may be required to provide immediate notification, per department policy.

Section 2 - This Ordinance Amendment and Creation shall become effective upon passage and publication pursuant to law.

Respectfully submitted,

EXECUTIVE COMMITTEE

Approved By:

COUNTY EXECUTIVE (Date)

COUNTY CLERK (Date)

COUNTY BOARD CHAIR (Date)

Authored by: Human Resources

Reviewed, Edited and Approved by Corporation Counsel

Fiscal Impact: This ordinance does not require an appropriation from the General Fund.

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BOARD OF SUPERVISORS ROLL CALL # _____

Motion made by Supervisor _____

Seconded by Supervisor _____

| SUPERVISOR NAMES | DIST. # | AYES | NAYS | ABSTAIN |
|------------------|---------|------|------|---------|
| SIEBER | 1 | | | |
| DE WANE | 2 | | | |
| NICHOLSON | 3 | | | |
| HOYER | 4 | | | |
| GRUSZYNSKI | 5 | | | |
| LEFEBVRE | 6 | | | |
| ERICKSON | 7 | | | |
| ZIMA | 8 | | | |
| EVANS | 9 | | | |
| VANDER LEESE | 10 | | | |
| BUCKLEY | 11 | | | |
| LANDWEHR | 12 | | | |
| DANTINNE, JR | 13 | | | |

| SUPERVISOR NAMES | DIST. # | AYES | NAYS | ABSTAIN |
|------------------|---------|------|------|---------|
| BRUSKY | 14 | | | |
| BALLARD | 15 | | | |
| KASTER | 16 | | | |
| VAN DYCK | 17 | | | |
| LINSSEN | 18 | | | |
| KNEISZEL | 19 | | | |
| CLANCY | 20 | | | |
| CAMPBELL | 21 | | | |
| MOYNIHAN, JR | 22 | | | |
| BLOM | 23 | | | |
| SCHADEWALD | 24 | | | |
| LUND | 25 | | | |
| BECKER | 26 | | | |

Total Votes Cast _____

Motion: Adopted _____ Defeated _____ Tabled _____

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305 E. WALNUT STREET
P.O. BOX 23600
GREEN BAY, WI 54305-3600

KATHRYN ROELLICH

PHONE (920) 448-4071 FAX (920) 448-6277 WEB: www.co.brown.wi.us

HUMAN RESOURCES DIRECTOR

RESOLUTION/ORDINANCE SUBMISSION TO COUNTY BOARD

DATE: October 9, 2017
REQUEST TO: Executive Committee
MEETING DATE: October 9, 2017
REQUEST FROM: Kathryn Roellich
Human Resources Director

REQUEST TYPE: New resolution Revision to resolution
 New ordinance Revision to ordinance

TITLE: An Ordinance Amending Subsection 4.25 of Chapter 4 of the Brown County Code of Ordinances Entitled "Employment Selection Process"

ISSUE/BACKGROUND INFORMATION:

Upon beginning employment with Brown County, the need for updates/revisions to Chapter 4 of the Brown County Ordinances was indicated as a priority. Thus, revisions began. The plan, as discussed with Administration Committee was to update sections of Chapter 4 and bring them forward as each section was complete until the entire Chapter had been reviewed and/or revised. This is one of the initial sections completed.

ACTION REQUESTED:

Change Subsection 4.25 of Chapter 4 of the Brown County Code of Ordinances Entitled "Employment Selection Process" as outlined in the resolution.

FISCAL IMPACT:

NOTE: This fiscal impact portion is initially completed by requestor, but verified by the DOA and updated if necessary.

- 1. Is there a fiscal impact? Yes No
 - a. If yes, what is the amount of the impact? _____
 - b. If part of a bigger project, what is the total amount of the project? \$ _____
 - c. Is it currently budgeted? Yes No
 - 1. If yes, in which account? _____
 - 2. If no, how will the impact be funded? _____

COPY OF RESOLUTION OR ORDINANCE IS ATTACHED

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