

DECEMBER 14, 2010
WALWORTH COUNTY BOARD OF SUPERVISORS
MEETING

The Walworth County Board of Supervisors meeting was called to order by Chair Russell at 6:00 p.m. in the County Board Room at the Walworth County Government Center, 100 W. Walworth Street, Elkhorn, Wisconsin.

Roll call was conducted and the following Supervisors were present: Richard Brandl, Jerry A. Grant, Randy Hawkins, Kathy Ingersoll, Vice-Chair Daniel G. Kilkenny, Carl Redenius, Joe Schaefer, Rick Stacey, Russ Wardle, David A. Weber, and Chair Nancy Russell. All Supervisors were present and a quorum was established.

David Weber, Walworth County Board Supervisor, District # 7, delivered the invocation.

Amendments, Withdrawals, and Approval of Agenda

On motion by Supervisor Brandl, seconded by Supervisor Grant, the agenda was approved by voice vote.

Approval of the Minutes

On motion by Supervisor Hawkins, seconded by Supervisor Schaefer, the minutes of the November 1, 2010 Public Budget Hearing were approved by voice vote. On motion by Supervisor Schaefer, seconded by Supervisor Stacey, the November 9, 2010 Walworth County Board Meeting minutes were approved by voice vote.

Comment Period by Members of the Public Concerning Items on the Agenda

There were none.

Appointments

1. 911 Governing Board

- Captain Kevin Williams – Term to begin upon appointment and end May 8, 2012
 - David Fladten – Term to begin upon appointment and end May 8, 2012
 - Jerry Grant – Term to begin upon reappointment and end May 8, 2012
 - Bruce VanderVeen – Term to begin upon reappointment and end May 8, 2012
- (Recommended by the Executive Committee 5-0)

On motion by Supervisor Weber, seconded by Supervisor Brandl, Captain Kevin Williams, David Fladten, Jerry Grant, and Bruce VanderVeen were appointed to the 9-1-1 Governing Board, as recommended by the Executive Committee, by voice vote.

Communications and Matters to Be Referred

Chair Russell announced that unless there was a request for an individual communication to be discussed, the Clerk would dispense with the reading of each title and the Chair would direct that all communications be referred or placed on file as indicated on the agenda.

1. Claims Received After Agenda Mailing
2. Claims: a) Notice of Claim for Damages – AT&T – Damage to Telephone Pedestal and Buried Cable-On or about July 29, 2010, W7785 Wisconsin Parkway, Delavan; b) Claim for Damages – AT&T – Damage to Telephone Pedestal and Cable-On or about September 2, 2010, N4144 County Highway NN, Lake Geneva were referred to the Executive Committee.
3. Communication from David J. Shaw, General Manager, 2011 Camping Operational Plan for Alpine Valley Music Theatre was referred to the Executive Committee.
4. Brown County Resolution to Our Senators and Congressmen – To Urge the U.S. Army Corps of Engineers to Rebid the Renard Island Causeway Project and to Award the Contract to the Low Bidder was referred to the Executive Committee.
5. Vilas County Resolution 2010-143 – Rescinding Changes Made to Prevailing Wage Laws was referred to the Executive Committee.
6. Communication from State Senator Robert W. Wirch regarding Mary Beth Gibbons-Adams was referred to the Land Conservation Committee.
7. Communication from Village of Genoa City regarding Ernie and Ruth Kloppstein Annexation was placed on file.
8. Town of Linn Resolution Approving the Comprehensive Revision of the Walworth County Zoning Ordinance Adopted by the Walworth County Board of Supervisors on December 15, 2009 was placed on file.
9. Communication from Jim Michels, Chairman, District of Powers Lake, regarding Mr. Chudy/Golf Gifts & Gallery pending request to rezone from R-1 to M-1 was placed on file.
10. Communication from Wheeler, Van Sickle & Anderson, S.C., Attorneys for Daniel and Mary Adams, Dr. Thomas V. Powell and Dian Briley Powell in Opposition to Dean Chudy Application for Rezone of 5.58 Acres, Town of Bloomfield (Powers Lake) was placed on file.
11. Communication from State Representative Samantha Kerkman acknowledging receipt for Walworth County’s Resolution 50-10/10 regarding authorizing financial support of local public health departments by the State of Wisconsin was placed on file.
12. Report of the County Clerk Concerning Communications Received by the Board and Recommended to be Placed on File
13. Report of County Clerk Concerning Communications Received by the Board After the Agenda Mailing-The following items were placed on Supervisors’ desks:
 - Communication from Kenneth R. Yunker, Executive Director, SEWRPC, with a copy of the Southeastern Wisconsin Regional Planning Commission’s *2009 Annual Report* (The Report is on file in the County Clerk’s Office)
 - *Walworth County Aging & Disability Resource Center News*, December 2010 – To be placed on file
14. Report of County Clerk Concerning Zoning Petitions (To be referred to the County Zoning Agency)
 - Shane E. Dunham, Town of Sugar Creek, A-1 to A-4

- Frank G. Krueger (Jane K. Manske, App.), Town of Sugar Creek, M-4 to A-5

Unfinished Business

County Zoning Agency Report

1. Dean Chudy (Warren Hansen, App.), Town of Bloomfield, Rezone 5.58 acres of R-1 to M-1 – approved 7-0 (7-15-10 public hearing and referred back to County Zoning Agency from 8-10-10 County Board) (Also see related Amendment to 2035 Land Use Plan Map)-Postponed at November 9,. 2010 County Board Meeting
2. Dean Chudy (Town of Bloomfield, App.), Town of Bloomfield, Amend the 2035 Land Use Plan Map (approximately 4.5 acres) from Urban Density Residential (less than 5.0 acres per dwelling) to Industrial land use category – approved 5-2 (10-21-10 public hearing) (See related rezone)-Postponed at November 9, 2010 County Board Meeting

Supervisor Weber offered a motion, seconded by Supervisor Grant, to approve Unfinished Business, County Zoning Agency, item 1, Dean Chudy (Warren Hansen, App.), Town of Bloomfield, Rezone 5.58 acres of R-1 to M-1 – approved 7-0 (7-15-10 public hearing and referred back to County Zoning Agency from 8-10-10 County Board). Discussion ensued.

Chair Russell asked Michael Cotter, Deputy Corporation Counsel, to address the Board regarding the Chudy rezone. Cotter said that this item was tabled last month. There was a protest petition filed and he has deemed that the petition is valid; a valid petition would require a super majority to pass the rezone which would take 9 members of the County Board. Cotter said there has been discussion about having a public hearing or soliciting comments from members of the public; but for rezone matters that are pending before the County Board, public comment is not allowed during the Public Comment portion of the Board meeting. He said the County Board Supervisors may have questions, and if so, the question has to be very specific or pointed. A public hearing could be held by the County Board but the County Zoning Agency committee has already held a public hearing for this rezone.

Supervisor Weber said he was on the County Zoning Agency committee when they considered this rezone and he feels comfortable with the result of the committee. He said that as of this date all changes have been made for any concerns that have arisen. He said there is a plan to address the safety issue and he thinks it is a clean, neat, and orderly business that has been conducting itself for many years. He said that WCEDA has done a study on the impact of the business on the environment and there is very little. Also, there has been no reference to the tax revenue the business could create. He said he admires this as a company that is responsible and growing and is recognized in a positive way.

Supervisor Hawkins said there were three things of concern: safety of the roads, concerns of Shoreland, and the appearance of the facility. Regarding the safety issue, Walworth County has no authority to determine the type of traffic on the road and the Town should take care of those concerns; regarding the Shoreland, he respects what the Town has decided as well as the County Zoning Agency; and, regarding the appearance of the building, he feels Mr. Chudy will take into

account the concerns of the residents and will go the extra mile to the satisfaction of the neighbors. He said he will vote yes for the rezone tonight.

Supervisor Kilkenny said we are talking land use not development. We are all subject to zoning and he thinks both personal and business should be held to the same standards. Also, he doesn't think that the people opposing this rezone are against growth or against change but whether it should occur in this location or someplace else. The issue is whether this should be M-1 zoning and he thinks if this occurs in this location there will be problems. He said the M-1 zoning doesn't have a lot of restrictions which makes sense in a business park but not in its current location. He said because we approve this rezone doesn't mean all representations that are being proposed are going to happen and he will be voting no on the rezone.

Supervisor Schaefer asked if the rezone was turned down if it could be brought back again in one year. Cotter said, yes, it could be brought back in a year.

Supervisor Grant said Mr. Chudy would defray some of the costs of the highway improvements and the road is in bad need of repair. He said every letter or email he received stated that they don't want the area to change; everything changes and you can't stop it. He thinks Mr. Chudy will accomplish everything he can possibly do to earn this change and he said he will definitely support it.

Supervisor Weber said a number of communications were concerned about trucks and he would suggest that Mr. Chudy would fill his trucks more so there won't be that many more trucks. Supervisor Kilkenny said that we are asked that the property be rezoned R-1 to M-1 manufacturing and the product could be changed; then it certainly could increase truck traffic. He thinks change will occur and if it affects the County's long-term planning, he doesn't think it is wise.

Chair Russell asked Vice-Chair Kilkenny to come forward so that she could address the Board. She said she is very familiar with this area and has spent many hours visiting there. She said she drove past the property and she thought it would be a very dangerous area for semis, although she did not see any semis at the time. She said no one is trying to stop what is there. She said she personally does not think it should have been zoned as it is now but she would not try to change what is already in place. She doesn't think that a mistake made in the first place should be compounded or added to. The people on the lake side are paying substantial property taxes and she thinks their wishes should be given a great deal of consideration. She said she was at the public hearing and the only people who spoke in favor of the rezone were employees and one other that did not live close to the property. She said all communications, other than what she received from the Chudy's, were against this rezone and she will vote against it.

Chair Russell resumed the Chair.

A roll call vote was held on the motion to approve Unfinished Business, County Zoning Agency, item 1, Dean Chudy (Warren Hansen, App.), Town of Bloomfield, Rezone 5.58 acres of R-1 to M-1 – approved 7-0 (7-15-10 public hearing and referred back to County Zoning Agency from 8-10-10 County Board). The rezone required $\frac{3}{4}$ vote of the Board or 9 votes for approval

because of the protest petition filed with the County. Total vote: 11: Ayes: 7 – Brandl, Grant, Hawkins, Ingersoll, Stacey, Wardle, Weber; Noes: 4 – Kilkenny, Redenius, Schaefer, Russell; Absent: 0. Roll call vote failed.

Supervisor Kilkenny offered a motion, seconded by Supervisor Redenius, to deny Unfinished Business, County Zoning Agency, item 2, Dean Chudy (Town of Bloomfield, App.), Town of Bloomfield, Amend the 2035 Land Use Plan Map (approximately 4.5 acres) from Urban Density Residential (less than 5.0 acres per dwelling) to Industrial land use category – approved 5-2 (10-21-10 public hearing). Discussion ensued.

Cotter said now that the pending rezone has been defeated we are just talking about the Land Use Plan and you would be allowing a change to the Plan. It is a policy decision whether or not you want to change the Plan to allow other uses to the land. Supervisor Kilkenny offered a motion, seconded by Supervisor Redenius, to deny the proposed amendment to the Plan. Discussion ensued. Supervisor Grant said he thinks it would be best if we approve this because Mr. Chudy can come back in a year and reapply and the Town of Bloomfield has approved the change and he thinks it will be a lot less future work and best for Walworth County.

Supervisor Kilkenny said he disagrees because both matters can come up next year. One of the arguments for approving this item was for improvements that are going to be made and that this can come up again next year. He said decisions we make now will be used for precedent. One of the major focuses on Smart Growth is to have uses in appropriate areas. He said Bloomfield is in the process of incorporation and next year this will be their decision and if our plan is weakened he thinks it may cause legal difficulties. The purpose of Smart Growth is to have clarity of expectations and he said he thinks this opens it up and makes it more confusing when you have uses in inappropriate areas. He thinks it would be best to look at both of these items in unison and have them move in unison and not split the decisions.

A roll call vote was taken on the motion to deny item 2, Dean Chudy (Town of Bloomfield, App.), Town of Bloomfield, Amend the 2035 Land Use Plan Map. Total vote: 11: Ayes: 5 – Brandl, Kilkenny, Redenius, Schaefer, Russell; Noes: 6 – Grant, Hawkins, Ingersoll, Stacey, Wardle, Weber; Absent: 0. Roll call vote failed.

A motion was offered by Supervisor Hawkins, seconded by Supervisor Stacey to approve item 2. A roll call vote was held. Total vote: 11: Ayes: 6 – Grant, Hawkins, Ingersoll, Stacey, Wardle, Weber; Noes: 5 – Brandl, Kilkenny, Redenius, Schaefer, Russell; Absent: 0. Motion carried.

New Business

Reports of Standing Committees

County Zoning Agency

1. Chapter 27 Zoning Ordinance for the Town of Bloomfield – approved 7 – 0 (11-18-10 public hearing)

2. Steven S. Walter, Town of Darien, Rezone 2.49 acres from A-1 & A-4 to A-4 & A-1 – approved 7 – 0 (11-18-10 public hearing)
3. Fredrick and Mary A. Coss, Town of Linn, Rezone 2.04 acres from R-1 to A-5 – approved 7 – 0 (11-18-10 public hearing)
4. Edward Culbertson as Trustee (Atty. John L. Maier, Jr., App.), Town of Linn, Rezone 7.44 acres from C-2 to C-3 – approved 7 – 0 (11-18-10 public hearing)
5. County Zoning Agency at the request of the Wis. DNR – designation of a 100-year floodplain amendment, due to a dam safety failure analysis, on the stream located below the outlet dam for Rice Lake in the Town of Whitewater – approved 7 – 0 (11-18-10 public hearing)

On motion by Supervisor Stacey, seconded by Supervisor Grant, the County Zoning Agency Report of Proposed Zoning Amendments, items 1, 2, 3, and 5, were approved as recommended by the County Zoning Agency.

Supervisor Stacey offered a motion, seconded by Supervisor Weber, to approve County Zoning Agency, item 4, Edward Culbertson as Trustee (Atty. John L. Maier, Jr., App.), Town of Linn, Rezone 7.44 acres from C-2 to C-3 – approved 7 – 0 (11-18-10 public hearing). Discussion ensued.

Chair Russell asked Vice-Chair Kilkenny to take the Chair so that she could address this issue. She asked Michael Cotter to come forward and explain the rezone. She said this is 7.44 acres to rezone from C-2 to C-3. Cotter outlined the parcel on the map for the Supervisors. He said the vast majority is primary environmental corridor and the majority of the property is identified on the 2035 plan. Chair Russell said she will vote against this because primary environmental corridor is suppose to be at a density of no more than one dwelling per five acres. This would be divided into two parcels on a 7.44 piece. The SEWRPC Board just finished and published the water project which has been worked on for the last five years. She said one of the findings was that the primary recharge areas in all of the seven counties are in the primary environmental corridors and it is recommended that there be no building in those areas and that it should be primarily used as recreational. She is not going to propose that but she thinks we should stick to our own rules that primary environmental corridors have a minimum of five acres per dwelling. She said obviously when there is a dwelling there is a lot of impervious surface which affects the absorption for recharge of our ground water. She said we are losing a lot of water in Walworth County which doesn't show now but that is what it happening.

Chair Russell resumed the Chair.

Supervisor Kilkenny said he agrees with Chair Russell's concerns regarding the environmental corridor. He asked if the map change issue had been brought up before the Town and the Zoning Agency. Cotter said it was brought up before the Town and the County Zoning Agency determined that the rezone is consistent with 2035 plan. Supervisor Kilkenny said if we have rules regarding primary environmental corridors we should adhere to them. Supervisor Grant said as long as it is in compliance with the Land Use Plan and zoning committee approved the rezone 7-0, he sees no reason not to agree with them.

A voice vote was taken to approve item 4, Edward Culbertson as Trustee (Atty. John L. Maier, Jr. App.). Item 4 was approved as recommended by the County Zoning Agency. Supervisors Kilkenny and Russell requested that their votes be recorded as No.

Executive Committee

1. Ordinance No. 659-12/10 – Amending Chapter 2 of the Walworth County Code of Ordinances Relating to Record Retention-*Vote required: Two-thirds* (Recommended by the Executive Committee 5-0)
2. Resolution No. 65-12/10 – Establishing 2011 Committee of the Whole Meeting Dates-*Vote required: Majority* (Recommended by the Executive Committee 5-0)
3. Resolution No. 66-12/10 – Supporting the Development of a Southeast Region Incident Management Team and Authorizing the County’s Emergency Management Director to Participate in Planning and Development of the Team-*Vote required: Majority* (Recommended by the Executive Committee 5-0)
4. Resolution No. 67-12/10 – Denying the Claim of Walter Lee Fleming-*Vote required: Majority* (Recommended by the Executive Committee 5-0)

Supervisor Grant offered a motion, seconded by Supervisor Weber, to approve item 1, Ordinance No. 659-12/10. On motion by Supervisor Grant, seconded by Supervisor Weber, **Ordinance No. 659-12/10** was approved by **unanimous consent**.

On motion by Supervisor Brandl, seconded by Supervisor Weber, item 2, **Resolution No. 65-12/10**, item 3, **Resolution No. 66-12/10**, and item 4, **Resolution 67-12/10**, were approved by voice vote.

Finance Committee

1. Ordinance No. 660-12/10 – Amending Section 30-172 of the Walworth County Code of Ordinances Relating to Fund Balance Commitments-*Vote required: Majority* (Recommended by the Finance Committee 4-0)
2. Ordinance No. 661-12/10 - Amending Section 30-156(D)(5) of the Walworth County Code of Ordinances Relating to Acceptance and Use of Donations-*Vote Required: Majority* (The Finance Committee will consider at a special meeting on December 14, 2010 prior to the County Board Meeting.)
3. Resolution No. 62-12/10 – Accepting the Donation from the Geneva National LEO Foundation of Three (3) TAP-it-SMART Board Interactive Learning Centers for Use at Lakeland School-*Vote required: Majority* (Recommended by the Children with Disabilities Education Board 3-0 and the Finance Committee 3-0)
4. Resolution No. 63-12/10 – Requesting Transfer of \$30,000 from the 2010 Contingency Fund to Provide Funding to Complete Underground Fuel Tank Remediation Plan-*Vote required: Two-thirds* (Recommended by the Finance Committee 4-0)
5. Resolution No. 64-12/10 – Authorizing Addition of Prescription Drug Clean Sweep Grant to Pre-Approved Recurring Grants List-*Vote required: Majority* (Recommended by the Finance Committee 4-0)

6. Resolution No. 68-12/10 – Requesting a Transfer of \$25,000 from the 2010 Contingency Fund for Lighting Project for the South Side of the Government Center-*Vote required: Two-thirds* (The Public Works and Finance Committees will be considering at specials meetings on December 14, 2010, prior to the County Board meeting.)

The Finance Committee considered items 2 and 6 at a special meeting prior to the County Board meeting and recommended approval by the County Board. The Public Works Committee also considered item 6 at a special meeting prior to the Board meeting and recommended approval by the Board.

On motion by Supervisor Weber, seconded by Supervisor Stacey, item 1, **Ordinance No. 660-12/10**, item 2, **Ordinance No. 661-12/10**, item 3, **Resolution No. 62-12/10**, by voice vote.

Supervisor Brandl offered a motion, seconded by Grant, to approve item 4, Resolution No. 63-12/10. On motion by Supervisor Grant, seconded by Supervisor Weber, **Resolution No. 63-12/10** was approved by **unanimous consent**.

On motion by Supervisor Ingersoll, seconded by Supervisor Schaefer, item 5, **Resolution 64-12/10** was approved by voice vote.

Supervisor Schaefer offered a motion, seconded by Supervisor Wardle, to approve item 6, Resolution No. 68-12/10. On motion by Supervisor Grant, seconded by Supervisor Weber, **Resolution No. 68-12/10** was approved by **unanimous consent**.

Human Resources

1. Ordinance No 658-12/10 – Amending Section 15-545 of the Walworth County Code of Ordinances Relating to Benefits Provided-*Vote required: Majority* (Recommended by the Human Resources Committee 3-2)
2. Resolution No. 58-12/10 – Implementing Changes in Wages and Benefits for Non-Represented Employees for 2011-*Vote required: Majority* (Recommended by the Human Resources Committee 4-1)
3. Resolution No. 59-12/10 – Approving a Collective Bargaining Agreement by and between Walworth County and the Health and Human Service Professionals for the Period of January 1, 2011 to December 31, 2011-*Vote required: Majority* (Recommended by the Human Resources Committee 5-0)
4. Resolution No. 60-12/10 – Approving a Collective Bargaining Agreement by and between Walworth County and the Deputy Sheriffs Association for the Period of January 1, 2011 to December 31, 2011-*Vote required: Majority* (Recommended by the Human Resources Committee 5-0)
5. Resolution No. 61-12/10 – Approving a Collective Bargaining Agreement Re-Opener by and between Walworth County and AFSCME Locals 1925, 1925A, 1925B and 1925C for the Period of January 1, 2011 to December 31, 2011-*Vote required: Majority* (Recommended by the Human Resources Committee 5-0)

On motion by Supervisor Ingersoll, seconded by Supervisor Grant, item 1, **Ordinance No. 658-12/10**, item 2, **Resolution No. 58-12/10**, item 3, **Resolution No. 59-12/10**, item 4, **Resolution No. 60-12/10**, item 5, and **Resolution No. 61-12/10** were approved by voice vote. Supervisor Schaefer and Brandl voted No.

Reports of Special Committees

There were none.

Comment Period by Members of the Public Concerning Items Not on the Agenda

William Vlach, N2886 North Road, Darien, addressed the Board regarding conflicting laws between the County and State. He said he came from Illinois because he was being harassed as a car collector. He said in the State of Wisconsin there is criteria that cars have to be behind a screen or bushes. He said Walworth County says that no more than one unlicensed vehicle can be on a property unless it is in a building and he said that restricts what the State tells us in the Statutes. He said he would like to ask the County to go along with the State Statutes so that he would be able to put his stuff behind a fence or shrubs. Mr. Vlach submitted a copy of a section of the WI Statutes regarding registration of vehicles. Clerk Bushey received the document to be entered into the Board records. Supervisor Kilkenny suggested that Mr. Vlach write a letter to the County Board to be referred to the proper committee.

Chairperson's Report

Chair Russell announced that the Lakeland School concert would be held on Thursday, December 16 at 1:00 p.m. She encouraged everyone to attend and enjoy the children that are so talented and also to bring a canned food item for the food pantry.

Adjournment

On motion by Supervisor Brandl, seconded by Supervisor Kilkenny, the meeting was adjourned at 7:02 p.m.

STATE OF WISCONSIN)
)SS
COUNTY OF WALWORTH)

I, Kimberly S. Bushey, County Clerk in and for the County aforesaid, do hereby certify that the foregoing is a true and correct copy of the proceedings of the County Board of Supervisors for the December 14, 2010 meeting.