

Waukesha County Board of Supervisors

Minutes of the Executive Committee Monday, March 20, 2023

Chair Decker called the meeting to order at 8:30 a.m.

Present: Supervisors Paul Decker, Tyler Foti, Keith Hammitt, Jim Heinrich, Jacob LaFontain, Larry Nelson and Peter Wolff.

Also Present: Chief of Staff Sarah Spaeth, Legislative Policy Advisor Sarah Fraley, Administrative Specialist Barbara Hollander, Supervisor Richard Morris, Budget Manager Bill Duckwitz, Director of Public Works Allison Bussler, Engineering Services Manager Karen Braun, Senior Civil Engineer Ed Hinrichs, Corporation Counsel Erik Weidig, Principal Assistant Corporation Counsel Demetra Christopoulos, Director Parks and Land Use Dale Shaver, James Baker, Attorney Joseph R. Cincotta, Tom Halquist (Halquist Stone), Attorney Mitch Olsen (Axley Brynson, LLP), Wade Balson (Halquist Stone)

Approve Minutes of February 20

MOTION: LaFontain moved, second by Hammitt to approve the minutes of February 20. Motion carried 7-0

Next Meeting Date

April 17

Standing Committee Reports

Hammitt, Wolff, LaFontain, Heinrich gave reports on their respective committees.

Announcements

Reminder to take customer service surveys where appropriate.

Legislative Update

Fraley presented that the legislature is in between presentation of the Executive Budget and Joint Finance Committee budget process. She is taking this opportunity to educate legislators on the successes, efficiencies and innovations of Waukesha County and highlighting the costs we face. She met with Meg Wartman and Representative Maxey, who is on the committee that any election bills will go through to provide an overview of our election process. Fraley and Rebecca Mattano attended Wisconsin Parks and Recreation Association's Lobbying Day in Madison last week. She is now working with Health and Human Services to prepare for the Wisconsin Counties Association Lobbying Day in Madison that will be held in early April.

Public Hearing

Hearing regarding the ability to pursue administrative review under Chapter 18 of the Waukesha County Code in the matter of James Baker v. Waukesha County Planning Commission and North Lake Sand and Gravel

Baker stated that until recently the quarry has been a good neighbor. There was a change in ownership and an expansion of the quarry, which created noise intrusions in his home due to the increased decibel levels. He has participated in all of the town meetings regarding this subject matter and submitted verifiable information in regard to the negative impacts of the noise. The Waukesha County Planning Commission approved the permit, and he is now challenging that approval and seeking a full process hearing to show that misrepresentations and inaccurate information were the basis for that approval.

Cincotta, representing Baker, stated that Baker is seeking to pursue administrative remedies in Ch. 18-150 to challenge the granting of a conditional use permit (CUP) allowing the operation of a quarry/gravel pit in the Town of Merton by the applicant North Lake Sand and Gravel by the Waukesha County Park and Planning Commission. The determination by Waukesha County is that Baker is not entitled to use the process set out in Ch. 18-150, specifically 18-154 of the County Code. Cincotta said Baker has sought review of this matter in circuit court.

Christopoulos, representing the Waukesha County Planning Commission, stated that the Planning Commission is seeking Executive Committee's review of a determination that the administrative review procedures of Chapter 18 of the County Code are not available to an aggrieved person seeking review of a decision to grant or deny a conditional use permit. The language of Section 59.69(5)(e) of the Wisconsin Statutes and Section 41 of the Shoreland Code set forth the specific procedure to be followed. Where there are two potential applicable laws or forms of belief, the more specific rule should follow, and here the Shoreland Code and the state statutes are the more specific law. The relief provided in the Shoreland Code and Wisconsin Statutes is by certiorari review. Also, Baker has been afforded due process, which includes proper notice, and a meaningful opportunity to be heard. Christopoulos concluded that the Planning Commission requests the Executive Committee affirm the decision of the Planning Commission that the administrative review procedures under Chapter 18 do not apply to the granting or denial of a conditional use permit.

Olsen, representing North Lake Sand and Gravel, stated he concurred with Christopoulos. He said Baker was given an ample opportunity to be heard at the hearings. It is not appropriate to have a further review under Chapter 18 at the Executive Committee level. The proper location for this is certiorari before Waukesha Circuit Court. Olsen requested that the committee reject the effort to have a further review under Chapter 18 of the county code, and let this go forward where it is currently pending in circuit court.

Cincotta reemphasized that Chapter 18 was created to provide a second process where it is not otherwise provided for.

CLOSED SESSION:

MOTION: Hammitt moved, second by LaFontain to convene in closed session at 9:10 a.m. pursuant to Section 19.85(1)(g), Wisconsin Statutes, for the purpose of deliberating with respect to the case of Baker v. Waukesha County Planning Commission, et. al., and Section 19.85(1)(g) for the purpose of conferring with legal counsel regarding the same, and to approve the closed session minutes of 9-12-22. Motion carried 7-0

The committee returned to open session at 9:40 a.m.

MOTION: Hammitt moved, second by Heinrich to affirm the decision of the Park and Planning Commission and determines that Chapter 18 of the Waukesha County Code does not apply, and to direct Corporation Counsel to prepare a written decision based on discussion in closed session. Motion carried 7-0

Discuss and Consider Ordinance 177-O-111 Modify the 2023-2027 Capital Plan And 2023 Capital Budget For Cost Increases And Estimated Revenues For Capital Project 201610 CTH O, CTH I To CTH ES, And Transfer Funds From Capital Project 202102 CTH O, CTH HH To Grange Avenue, If Approved.

Bussler, Braun and Hinrichs presented that this ordinance is intended to address \$5,403,800 in net estimated above-budget project costs for capital project 201610, which rehabilitates County Trunk Highway (CTH) O (Moorland Road), from CTH I (Beloit Road) to CTH ES (National Avenue), in the City of New Berlin. The Department of Public Works is seeking an additional \$5,189,000 in revenue to offset most of the construction cost increase.

This ordinance modifies the 2023-2027 Capital Plan and the 2023 Capital Projects budget for project #201610 CTH O, CTH I to CTH ES, to appropriate additional expenditures of \$214,800 and increase general government revenues by \$214,800. This ordinance also modifies the 2023-2027 Capital Plan to reduce federal funding and increase county expenditures by \$5,189,000 for project #201202 CTH O, CTH HH to Grange Avenue, and transfers funds to project #201610 CTH O, CTH I to CTH ES, if this transfer is approved by both the Wisconsin Department of Transportation and the Waukesha County Department of Public Works.

MOTION: Wolff moved, second by Hammitt to approve Ordinance 177-O-111. Motion carried 7-0

Discuss and Consider the following appointments:

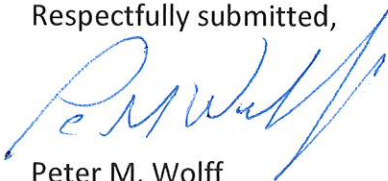
177-A-033 Mary Berg Reappointment Of Waukesha County Resident To The Waukesha County Health & Human Services Board; 177-A-034 Christine Howard Reappointment Of Waukesha County Board Supervisor To The Waukesha County Health & Human Services Board; 177-A-035 Don Richmond Appointment Of Citizen Member To The Aging & Disability Resource Center Board For Waukesha County; 177-A-036 Abbie Liedtke Appointment of Waukesha County Representative To The GFL Emerald Park Landfill Standing Committee And The WM Metro Waste Facilities Monitoring Committee

MOTION: Hammitt moved, second by Nelson to approve the above-listed appointments. Motion carried 7-0

Hammitt left the meeting at 10:08 a.m.

MOTION: Wolff moved, second by Foti to adjourn at 10:20 a.m. Motion carried 6-0

Respectfully submitted,



Peter M. Wolff

Secretary – Executive Committee

