

**ADJOURNED SESSION  
COUNTY BOARD MEETING  
TUESDAY, OCTOBER 19, 2004**

Chairman David Albrecht called the meeting to order at 6:00 p.m. in the County Board Room, Fourth Floor, Courthouse, 415 Jackson Street, Oshkosh, Wisconsin.

The meeting was opened with the Pledge of Allegiance and an invocation by Supervisor Rankin.

The following Supervisors were present: Weber, Barker, Griesbach, Hotynski, Scoville, Maehl, Koziczkowski, Klitzke, Widener, Lauson, Albrecht, Steineke, Lennon, Machotka, Sundquist, Wingren, Jacobson, Norton, Warnke, Nielsen, Robl, Kline, Lorenz, Kramer, Schaidler, Finch, Sievert, Diakoff, Brennand, Egan, Rankin, Rengstorf, O'Brien and Harris. Excused: Farrey and Pech. Absent: Arne and Thompson.

Motion by Supervisor Robl and seconded to approve the agenda. CARRIED BY VOICE VOTE.

**COMMUNICATIONS, PETITIONS, ETC.**

A notice of claim was received from Debra G. Daubert for damage to her car caused by road debris on County Road S. Ms. Daubert's claim was referred to the Personnel & Finance Committee.

A notice of claim was received from Dale Borkowski for damage to his truck caused by a County Highway Department vehicle. Mr. Borkowski's claim was referred to the Personnel & Finance Committee.

Information on a WCA Seminar entitled, "Parliamentary Procedure and Open Meetings" to be held on Monday, November 1 at the Plaza Hotel & Suites in Wausau was shared with the Board. Anyone interested in attending should contact the County Clerk's Office.

The following resolutions were received from other counties and referred to the appropriate committees:

- Chippewa County – Resolution No. 54-04, "Resolution Regarding ICF-MR Downsizing" was referred to the Human Services Board
- Columbia County - Resolution 39-04, "Calling for the Government to Require that the Wisconsin Department of Commerce Revise the Milk Volume Production (MVP) Program to Protect Water Quality" was referred to the Legislative Committee.
- Langlade County - Amended Resolution #103-2004, regarding "Highway Funding" was referred to the Highway Committee
- Langlade County – Resolution #109-2004, "Resolution regarding funding for placements of the Developmentally Disabled" was referred to the Human Services Board
- Oneida County – Amended Resolution #99-2004, regarding the spread of non-native aquatic species in Wisconsin's lakes, rivers and streams and how the State of Wisconsin is going to address this problem was referred to the Legislative Committee.

Petition for zoning amendment from Linda Wendt, Town of Black Wolf, for zoning change from R-1 to B-2 for a parking lot was referred to the Planning & Zoning Committee.

Petition for zoning amendment from Thomas Rusch, Town of Nekimi, for zoning change from A-1 to P-1 and B-3 for a veterans' military museum and future business was referred to the Planning & Zoning Committee.

Petition for zoning amendment from George Kontos, Town of Winneconne, for zoning change from A-2 & R-1 to R2 for single family residential development was referred to the Planning & Zoning Committee.

Petition for zoning amendment from Bruce Anunson, Town of Menasha, for zoning change from A-2 to R-2 for one family residence was referred to the Planning & Zoning Committee.

**REPORTS FROM COMMITTEES, COMMISSIONS AND BOARDS**

Supervisor Barker reported that there will not be a Legislative Committee meeting in October. Their next meeting will be held the second week of November. Anyone who has an agenda item for that meeting should contact Supervisor Barker as soon as possible.

Supervisor Lauson commended the Parks Department staff for the wonderful job they did coordinating the county's first annual Autumn Fest. It was held at the Community Park and the fairgrounds on Saturday, October 16 & Sunday, October 17. Despite the wet, cold weather, it was fairly well attended. Supervisor Lauson said it was a good learning experience for next year's event.

Supervisor Egan reported that Lynn Scarlet, Assistant Secretary of the Interior for the U.S. Government, presented Ducks Unlimited with a \$1 Million check, \$500,000 of which goes to the Rush Lake project. Supervisor Egan stated that the other \$500,000 will be used for additional projects in and around Winnebago County.

Supervisor Egan also reported that Martin Wittmer from the U.S. Department of Transportation met with local officials and local railroad providers and congratulated us for the rail system that has been setup for Oshkosh Truck in

Oshkosh and American Celluloid in Picket. Supervisor Egan stated that they are also in negotiations with 12 other businesses along that rail line.

Supervisor Finch reported that the Scholarship Committee has met with the county's high schools and provided them with the literature and applications for next year's scholarship program.

Supervisor Brennand reported that the County Mutual Insurance Board met on October 15 and for 2004 approved a \$1.5 Million dividend for member counties. Supervisor Brennand reported that Winnebago County's portion of that dividend will be \$93,282.

Motion by Supervisor Lauson and seconded to approve the September 7 & 21, 2004 proceedings. CARRIED BY VOICE VOTE.

### **COUNTY EXECUTIVE'S REPORT**

Executive Van De Hey reported that she attended Autumn Fest over the weekend and judged the pumpkin-carving contest. She commended the Parks Department on setting up this wonderful community event and hopes that it continues.

Executive Van De Hey commended the county's Land & Water Department for obtaining federal matching funds for a project in Eureka.

Executive Van De Hey stated that last week she and other county departments worked with Secret Service to prepare for the President's visit to Wittman Regional Airport. She stated that it was very impressive to see Airforce One land at our airport.

Executive Van De Hey reported that budget books had been placed on the supervisors' desks and that the budget meetings will begin the evening of Monday, October 26. She stated that total expenditures are up 2.8%, total growth in the county is up 2.8% and equalized valuation is up 7%. Executive Van De Hey looks forward to the Board's input on what she feels is a very good budget.

### **CHAIRMAN'S REPORT**

Chairman Albrecht reported that last month he attend Supervisor Maehl's swearing in ceremony as the President of the Wisconsin Counties Association. He congratulated Supervisor Maehl and stated that he will do a great job for the WCA and Wisconsin's counties.

Chairman Albrecht and other officials visited Hastings County, Minnesota and LaCrosse County, Wisconsin last week to learn about their procedures for incarcerating prisoners and jail procedures. Chairman Albrecht explained that they visited these two counties to study their jail procedures because they have very low prisoner return rates. A presentation on what was learned from these two counties will be given to the entire County Board sometime in the next couple of months.

Chairman Albrecht extended "happy birthday" wishes to Supervisors Hotynski, Pech, Rengstorf & Egan. He thanked Supervisors Egan, Hotynski and Rengstorf for their donations to the scholarship program.

### **PUBLIC HEARING**

No one addressed the Board.

### **ZONING REPORTS & ORDINANCES**

REPORT NO. 001. A report from the Planning & Zoning Committee regarding a requested zoning change from applicants Bruce & Carol Neubauer and property owners Angela Suhail and Richard Klemz, Town of Algoma, for zoning change to B-3(HB). Motion by Supervisor Schaidler and seconded to accept recommendation to DENY. CARRIED BY VOICE VOTE.

AMENDATORY ORDINANCE NO. 10-01-04. A request for zoning change from A-2 (General Farming) to B-3(HB) (General Business-Highway Business overlay). Motion by Supervisor Schaidler and seconded to DENY. CARRIED BY VOICE VOTE. (Effective date – October 25, 2004)

REPORT NO. 002. A report from the Planning & Zoning Committee regarding a requested zoning change from applicant and property owner Joseph Lamberty, Town of Winneconne, for zoning change to R-2. Motion by Supervisor Schaidler and seconded to accept. CARRIED BY VOICE VOTE.

AMENDATORY ORDINANCE NO. 10-02-04. A request for zoning change from R-1/R-2 (Single Family non-subdivided/ Single Family subdivided) to R-2 (Single Family subdivided). Motion by Supervisor Schaidler and seconded to adopt. CARRIED BY VOICE VOTE. (Effective date – October 25, 2004)

REPORT NO. 003. A report from the Planning & Zoning Committee regarding a requested zoning change from applicants and property owners James and Margaret Potratz, Town of Omro, for zoning change to A-2 for Lot 1 and R-1 for Lot 2. Motion by Supervisor Schaidler and seconded to accept. CARRIED BY VOICE VOTE.

AMENDATORY ORDINANCE NO. 10-03-04. A request for zoning change from A-2/R-1 (General Farming/Single Family non-subdivided) to A-2 (General Farming) for Lot 1 and R-1 (Single family non-subdivided) for Lot 2. Motion by Supervisor Schaidler and seconded to adopt. CARRIED BY VOICE VOTE. (Effective date – October 25, 2004)

REPORT NO. 004. A report from the Planning & Zoning Committee regarding a requested zoning change from applicant and property owner Richard Carlson, Town of Neenah, for zoning change to R-2. Motion by Supervisor Schaidler and seconded to accept. CARRIED BY VOICE VOTE.

AMENDATORY ORDINANCE NO. 10-04-04. A request for zoning change from R-1 (Single Family non-subdivided) to R-2 (Single Family subdivided). Motion by Supervisor Schaidler and seconded to adopt. CARRIED BY VOICE VOTE. (Effective date – October 25, 2004)

AMENDATORY ORDINANCE NO. 5. A request from the Town of Utica on behalf of David & Joan Hielke for zoning change from A-1 to R-1. Motion by Supervisor Egan and seconded to adopt. CARRIED BY VOICE VOTE. (Effective date – October 25, 2004)

AMENDATORY ORDINANCE NO. 6. A request from the Town of Winneconne on behalf of Peter White for zoning change from A-2 to R-1A. Motion by Supervisor O'Brien and seconded to adopt. CARRIED BY VOICE VOTE. (Effective date – October 25, 2004)

### **RESOLUTIONS & ORDINANCES**

**RESOLUTION NO. 95-102004: Supporting the Effort to Prohibit the State of Wisconsin from Allowing Transportation Gas Tax and User Fee Funds to be Used For Any Other Purpose Except For Transportation Maintenance and Construction Projects.**

WHEREAS, Winnebago County and all other counties in the State of Wisconsin are responsible for the maintenance of all state and local highways; and

WHEREAS, a well maintained transportation infrastructure is vital to the welfare of the local and state economy; and

WHEREAS, the State of Wisconsin has a user fee system whereby revenue is generated in order to provide funding for the maintenance and construction of state and local highways; and

WHEREAS, these funds are to be allocated solely for the purpose of maintaining and constructing state and local highways; and

WHEREAS, the State of Wisconsin has allowed the transfer of funds out of the transportation budget in order to balance the state budget, which has seriously impaired the ability of county highway departments to continue to adequately maintain state and local highways.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby supports the effort of the Wisconsin Counties Association, and the Wisconsin County Highway Association to develop and implement legislative language prohibiting the State of Wisconsin from using transportation funding that is derived from user fees for any other purpose other than that of transportation maintenance and construction projects.

Submitted by:  
HIGHWAY COMMITTEE

Motion by Supervisor Robl and seconded to adopt. CARRIED BY VOICE VOTE.

**RESOLUTION NO. 96-102004: Authorize Submission of a Grant Application to the State of Wisconsin on Behalf of Winnebago County by the Winnebago County Corporation Counsel and the Subsequent Appropriation of Funds for a Brownsfield Site Assessment Grant**

WHEREAS, Winnebago County recognizes that the remediation and redevelopment of Brownsfields is an important part of protecting Wisconsin's resources; and

WHEREAS, it is the intent of the Winnebago County Board of Supervisors to complete the Brownfield Site Assessment Grant activities described in the application for funds relating to the remediation and abatement of the old American Quality Fibers site located in the City of Menasha if grant funds are awarded; and

WHEREAS, Winnebago County shall maintain records documenting all expenditures made during the

Brownfield Site Assessment Grant; and

WHEREAS, Winnebago County will allow employees from the Wisconsin Department of Natural Resources access to said site to inspect the grant site or facility and to also inspect grant records; and

WHEREAS, Winnebago County will submit a final report to the Department which will accompany the final payment request; and

WHEREAS, the Treasurer's proposed budget for 2005 contains appropriations for matching funds in relationship to this grant.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Corporation Counsel or, in his stead, the Winnebago County Treasurer, to request funds and assistance available from the Wisconsin Department of Natural Resources in the Brownfield Site Assessment Grant Program.

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that it will comply with state rules for said program.

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Corporation Counsel or the Winnebago County Treasurer, in his stead, to act on behalf of Winnebago County to submit an application to the State of Wisconsin for financial aid for Brownfield Site Assessment Grant purposes related to the American Quality Fibers site in the City of Menasha, to sign necessary appropriate documents, and to take any action necessary to undertake, direct and complete approved grant activities.

Submitted by:  
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Kline and seconded to adopt. Ayes: 33. Nays: 0. Excused: 2 - Farrey and Pech. Absent: 3 - Arne, Thompson and O'Brien. CARRIED.

**RESOLUTION NO. 97-102004: Commendation for Judith Pecore**

WHEREAS, Judith Pecore has been employed with the Winnebago County Department of Human Services, for the past twenty-eight years, and during that time has been a most conscientious and devoted County employee; and

WHEREAS, Judith Pecore has now retired from those duties, and it is appropriate for the Winnebago County Board of Supervisors to acknowledge her years of service.

NOW, THEREFORE, BE IT RESOLVED, by the Winnebago County Board of Supervisors, that sincere appreciation and commendation be and it hereby is extended to Judith Pecore for the fine services she has rendered to Winnebago County.

BE IT FURTHER RESOLVED, that the County Clerk send a copy of this Resolution to Judith Pecore.

Submitted by,  
PERSONNEL AND FINANCE COMMITTEE

Motion by Supervisor Kline & seconded to adopt. CARRIED BY VOICE VOTE.

**RESOLUTION NO. 98-102004: Disallow Claim of Brian Johns**

WHEREAS, your Personnel and Finance Committee has had the claim of Brian Johns referred to it for attention; and

WHEREAS, your Committee has investigated the claim and recommends disallowance of same by Winnebago County.

NOW, THEREFORE, BE IT RESOLVED, by the Winnebago County Board of Supervisors, that the claim of Brian Johns dated July 23, 2004, be and the same is hereby disallowed for the reason that there is no basis for liability on the part of Winnebago County.

Submitted by:  
PERSONNEL AND FINANCE COMMITTEE

Motion by Supervisor Kline & seconded to adopt. Ayes: 34. Nays: 0. Excused: 2 - Farrey and Pech. Absent: 2 - Arne and Thompson. CARRIED.

**RESOLUTION NO. 99-102004:                    Transfer \$47,500 from General Fund Undesignated Fund Balance to Various Accounts of Coroner's Office to Cover Projected Budget Overrun for 2004**

WHEREAS, it is projected that the Coroner will have budget overruns in the following accounts for 2004; and WHEREAS, there are not sufficient funds within any other accounts in the Coroners budget to cover the overages.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby appropriates \$47,500 from the General Fund Undesignated Fund Balance to the accounts of the Coroner's budget as outlined above.

Submitted by:  
JUDICIARY & PUBLIC SAFETY COMMITTEE  
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rengstorf & seconded to adopt. Ayes: 21. Nays: 13 – Weber, Hotynski, Maehl, Widener, Lauson, Jacobson, Norton, Nielsen, Robl, Harris, Lorenz, Finch and Brennand. Excused: 2 - Farrey and Pech. Absent: 2 - Arne and Thompson. LOST – 2/3rds of membership required.

**RESOLUTION NO. 100-102004:                    Transfer Money Between Capital Project Funds.**

WHEREAS, The Winnebago County Board has authorized and appropriated funds to the following projects; and

WHEREAS, there are sufficient funds remaining in the Jail and Public Safety System capital project funds to be able to transfer the funds to the above projects. Available funds are identified below; and

WHEREAS, transferring the funds would prevent the County from incurring arbitrage penalties and would prevent the County from needing to issue new debt for the above mentioned projects.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes transfers between the project budgets as outlined above.

Submitted by:  
PERSONNEL & FINANCE

Motion by Supervisor Kline and seconded to adopt. Ayes: 32. Nays: 2 – Wingren and Jacobson. Excused: 2 - Farrey and Pech. Absent: 2 - Arne and Thompson. CARRIED.

**RESOLUTION NO. 101-102004:                    Authorize the General Services Department to Enter into a 5-Year Lease to Replace the Mail Machine.**

WHEREAS, General Services Department currently possesses a mail machine that is old and frequently in disrepair; and

WHEREAS, the annual lease cost of a new machine would be \$3,480, which approximately equals the maintenance contract on the current machine, and

WHEREAS, because of the age and disrepair of the present machine, Winnebago County expends approximately \$3,175 annually because of having to send our mail out for processing, and

WHEREAS, other staff inefficiencies occur in General Services because of the disruption of work caused by these machine breakdowns.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the General Services Department to enter a 5-year lease for a new mail machine.

BE IT FURTHER RESOLVED that funds to pay for said mail machine shall come from mail service charges to user departments.

Submitted by:  
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Kline and seconded to adopt. Ayes: 32. Nays: 1 – Jacobson. Excused: 2 - Farrey and Pech. Absent: 3 - Widener, Arne and Thompson. CARRIED.

**RESOLUTION NO. 102-102004:            Transfer \$522,000 From General Fund Undesignated Fund Balance to Various Accounts of the Sheriff's Budget to Cover a Projected Budget Overrun For 2004**

WHEREAS, it is projected that the Sheriff will have budget overruns in expense accounts and shortfalls in revenue accounts for 2004 as outlined on the attached budget transfer form; and

WHEREAS, there are not sufficient funds within any other accounts in the Sheriff's budget to make up for all of the expense overages and revenue underages.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby appropriates \$522,000 from the General Fund Undesignated Fund Balance to the accounts of the Sheriffs budget so the department has sufficient funds to cover the remainder of 2004.

Submitted by:  
 JUDICIARY & PUBLIC SAFETY COMMITTEE  
 PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Rengstorf and seconded to adopt. Ayes: 34. Excused: 2 - Farrey and Pech. Absent: 2 - Arne and Thompson. CARRIED.

**RESOLUTION NO. 103-102004:            Resolution Authorizing the Borrowing of \$3,190,000; Providing for the Issuance and Sale of General Obligation Refunding Bonds Therefor; and Levying a Tax in Connection Therewith**

WHEREAS, the County Board of Supervisors of Winnebago County, Wisconsin (the "County") hereby finds and determines that it is necessary, desirable and in the best interest of the County to raise funds for the purpose of paying the cost of refunding obligations of the County, including interest on them, to wit: refunding the County's outstanding General Obligation Promissory Notes dated October 1, 1999 (the "1999 Notes") maturing in the years 2007 through 2009 (hereinafter referred to as the "Refunding"), and there are insufficient funds on hand to pay said costs;

WHEREAS, the County Board of Supervisors deems it to be necessary, desirable and in the best interest of the County to refund the 1999 Notes maturing in the years 2007 through 2009 (the "Refunded Obligations") for the purpose of achieving debt service cost savings;

WHEREAS, counties are authorized by the provisions of Chapter 67 of the Wisconsin Statutes to borrow money and to issue general obligation refunding bonds to refinance their outstanding obligations;

WHEREAS, the County Board of Supervisors heretofore has directed its financial advisor, Robert W. Baird & Co. Incorporated, Milwaukee, Wisconsin ("Baird") to take the steps necessary to sell general obligation refunding bonds to pay the cost of the Refunding;

WHEREAS, Baird, in consultation with the officials of the County, prepared an Official Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the aforesaid general obligation refunding bonds and indicating that the bonds would be offered for public sale on October 19, 2004;

WHEREAS, the County Clerk (in consultation with Baird) caused the Official Notice of Sale to be distributed to potential bidders offering the aforesaid general obligation refunding bonds for public sale on October 19, 2004;

WHEREAS, the following bids were received:

| <u>BIDDER</u>                             | <u>TRUE INTEREST RATE</u> |
|---|---------------------------|
| Morgan Keegan & Company, Inc.             | 2.505433%                 |
| Hutchinson, Shockey, Erley & Co.          | 2.528954                  |
| Robert W. Baird & Co., Inc.               | 2.549886                  |
| Griffin, Kubik, Stephens & Thompson, Inc. | 2.598122                  |
| Piper Jaffray Inc.                        | 2.601237                  |
| Sun Trust Capital Markets, Inc.           | 2.6146                    |
| UMB Bank, n.a.                            | 2.642258                  |
| Stifel, Nicolaus & Co.                    | 2.6879                    |
| Cronin & Co., Inc.                        | 2.6894                    |

WHEREAS, it has been determined that the bid (the "Bid") submitted by the financial institution listed first on the attached Bid Tabulation fully complies with the bid requirements set forth in the Official Notice of Sale and is deemed to be the most advantageous to the County. Baird has recommended that the County accept the Bid. A copy of said Bid submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference; and

WHEREAS, it has been determined that the general obligation refunding bonds shall be issued in the aggregate principal amount of \$3,190,000\*.

NOW, THEREFORE, BE IT RESOLVED by the County Board of Supervisors of the County that:

Section 1. Authorization of the Bonds. For the purpose of paying the cost of the Refunding, there shall be borrowed pursuant to Chapter 67 of the Wisconsin Statutes, the principal sum of THREE MILLION ONE HUNDRED NINETY THOUSAND DOLLARS (\$3,190,000\*).

Section 1A. Ratification of the Official Notice of Sale and Offering Materials. The County Board of Supervisors of the County hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Official Notice of Sale and other offering materials prepared and circulated by Baird are hereby ratified and approved in all respects. All actions taken by officers of the County and Baird in connection with the preparation and distribution of the Official Notice of Sale are hereby ratified and approved in all respects.

Section 1B. Award of the Bonds. The Bid of the Purchaser offering to purchase the \$3,190,000\* Winnebago County General Obligation Refunding Bonds (the "Bonds") for the sum set forth on the Bid, plus accrued interest to the date of delivery, is hereby accepted. The Bonds bear interest at the rates set forth on the Bid.

Section 2. Terms of the Bonds. The Bonds shall be designated "General Obligation Refunding Bonds"; shall be dated November 1, 2004; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered 1 and upward; and shall mature on April 1 of each year, in the years and principal amounts set forth on the debt service schedule attached hereto as Exhibit D and incorporated herein by this reference (the "Schedule"). Interest is payable semi-annually on April 1 and October 1 of each year commencing on April 1, 2005.

Section 3. Redemption Provisions. The Bonds shall not be subject to optional redemption.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the County are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the County a direct annual irrepealable tax in the years 2004 through 2008 for the payments due in the years 2005 through 2009 in the amounts set forth on the Schedule.

The direct annual irrepealable tax hereby levied shall be carried onto the tax roll and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the County for said years are collected. So long as any part of the principal of or interest on the Bonds remains unpaid, the tax hereinabove levied shall be and continues irrepealable except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus in the Debt Service Fund Account for the Bonds created below.

Section 6. Segregated Debt Service Fund Account. There is hereby established in the County treasury a fund account separate and distinct from all other funds or accounts of the County designated "Debt Service Fund Account for Winnebago County General Obligation Refunding Bonds dated November 1, 2004", which fund account shall be used solely for the purpose of paying the principal of and interest on the Bonds. There shall be deposited in said fund account all accrued interest paid on the Bonds at the time the Bonds are delivered to the Purchaser, any premium, all money raised by taxation pursuant to Section 5 hereof, and all other sums as may be necessary to pay principal of and interest on the Bonds as the same become due. Said fund account shall be used for the sole purpose of paying the principal of and interest on the Bonds, shall be maintained for such purpose until such indebtedness is fully paid or otherwise extinguished, and shall at all times be invested in a manner that conforms with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable income tax regulations (the "Regulations").

Section 7. Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into an account separate and distinct from all other funds and disbursed solely for the purposes for which borrowed or for the payment for the principal of and the interest on the Bonds.

Section 8. Arbitrage Covenant. The County shall not take any action with respect to the Bond Proceeds which, if said action had been reasonably expected to have been taken, or had been deliberately and intentionally taken on the date of delivery of and payment for the Bonds (the "Closing") would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

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\* Preliminary, subject to change.

\* Preliminary, subject to change.

The Bond Proceeds may be temporarily invested in legal investments until needed, provided however, that the County hereby covenants and agrees that so long as the Bonds remain outstanding, moneys on deposit in any fund or account created or maintained in connection with the Bonds, whether such moneys were derived from Bond Proceeds or from any other source, will not be used or invested in a manner which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code or Regulations. The County covenants that it will not invest in any obligation if such investment would violate the "prohibited payment" requirement of Section 148 of the Code.

The County Clerk, or other officer of the County charged with responsibility for issuing the Bonds, shall provide an appropriate certificate of the County, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the County regarding the amount and use of the Bond Proceeds and the facts and estimates on which such expectations are based, all as of the Closing.

Section 9. Additional Tax Covenants Including Rebate; Qualified Tax-Exempt Obligation Status. The County hereby further covenants and agrees that it will take all necessary steps and perform all obligations required by the Code and Regulations (whether prior to or subsequent to the issuance of the Bonds) to assure that the Bonds are obligations described in Section 103(a) of the Code, the interest on which is excludable from gross income for federal income tax purposes, throughout their term. The County Clerk or other officer of the County charged with the responsibility of issuing the Bonds, shall provide an appropriate certificate of the County as of the Closing, for inclusion in the transcript of proceedings, certifying that it can and covenanting that it will comply with the provisions of the Code and Regulations.

Further, it is the intent of the County to take all reasonable and lawful actions to comply with any new tax laws enacted so that the Bonds will continue to be obligations described in Section 103(a) of the Code, the interest on which is excludable from gross income for federal income tax purposes throughout their term.

The County covenants that it is a governmental unit with general taxing powers and that the Bonds are not "private activity bonds" as defined in Section 141 of the Code.

The County does not anticipate that it will qualify for any exemption from the rebate requirements of the Code. Accordingly, the County hereby covenants and agrees that there shall be paid from time to time all amounts to be rebated to the United States pursuant to Section 148(f) of the Code and any applicable Regulations. This covenant and agreement shall survive payment in full or defeasance of the Bonds. In order to fulfill such covenant and agreement, the County is hereby authorized to employ independent accountants, consultants or attorneys to assist in determining the rebate amounts.

The County Board of Supervisors hereby designates the Bonds to be "qualified tax-exempt obligations" pursuant to the provisions of Section 265(b)(3) of the Code and in support of such designation, the County Clerk or other officer of the County charged with the responsibility for issuing the Bonds, shall provide an appropriate certificate of the County, all as of the Closing.

Section 9A. Rebate Fund. If necessary, the County shall establish and maintain, so long as the Bonds are outstanding, a separate account to be known as the "Rebate Fund". The County hereby covenants and agrees that it shall pay from the Rebate Fund the rebate amounts calculated pursuant to the provisions of the Code and Regulations to the United States of America.

Amounts held in the Rebate Fund and the investment income therefrom are not pledged as security for the Bonds and may only be used to pay amounts to the United States.

The County shall maintain or cause to be maintained records of such calculations and shall make such records available upon reasonable request therefor.

The County hereby agrees it will disburse all moneys in the Rebate Fund to the United States of America at the times and in the manner set forth in any applicable Regulations proposed or promulgated thereunder.

Section 10. Execution of the Bonds. The Bonds shall be prepared in typewritten or printed form, executed on behalf of the County by the manual or facsimile signatures of the Chairperson and County Clerk, authenticated, if required, by its fiscal agent, if any, sealed with its official or corporate seal, if any, or a facsimile thereof and delivered to the Purchaser upon payment to the County of the purchase price thereof, plus accrued interest to the date of delivery. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the delivery of the Bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until such delivery. The aforesaid officers are hereby authorized to do all acts and execute all documents as may be necessary and convenient for effectuating the Closing.

Section 11. Payment of the Bonds. The principal of and interest on the Bonds shall be paid in lawful money of the United States of America by the County Clerk or County Treasurer.

Section 11A. Persons Treated as Owners; Transfer of Bonds. The County shall keep books for the registration and for the transfer of the Bonds. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.



Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the County Clerk, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Chairperson and County Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the County Clerk shall record the name of each transferee in the registration book. No registration shall be made to bearer. The County Clerk shall cancel any Bond surrendered for transfer.

The County shall cooperate in any such transfer, and the Chairperson and County Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

The fifteenth day of each calendar month next preceding each interest payment date shall be the record date for the Bonds. Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the County at the close of business on the corresponding record date.

Section 12. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the County agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the County and on file in the County Clerk's office.

Section 13. Undertaking to Provide Continuing Disclosure. The County hereby covenants and agrees, for the benefit of the holders of the Bonds, to enter into a written undertaking (the "Undertaking") required by SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the holders of the Bonds or by the Purchaser on behalf of such holders (provided that the rights of the holders and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the County to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

The County Clerk, or other officer of the County charged with the responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the County's Undertaking.

Section 14. Escrow Agent; Escrow Agreement; Escrow Account. Associated Trust Company, National Association, Green Bay, Wisconsin, is hereby appointed escrow agent for the County, for the purpose of ensuring the payment of the principal of and interest on the Refunded Obligations (the "Escrow Agent").

The Chairperson and County Clerk are hereby authorized and directed to execute an escrow agreement substantially in the form attached hereto as Exhibit F (the "Escrow Agreement") (such form may be modified by said officers prior to execution, the execution of such agreement by said officers to constitute full approval of the County Board of Supervisors of any such modifications), with the Escrow Agent, for the purpose of effectuating the provisions of this Resolution.

The County Board of Supervisors hereby authorizes the appropriate officers and agents of the County to enter into revised or supplemental escrow agreements from time to time and to pay expenses related thereto if entering into such agreements is in the best interest of the County, continues to provide for the timely payment of the Refunded Obligations, conforms to the requirements of the Escrow Agreement and does not alter the tax status of the interest on the Refunded Obligations or the Bonds.

The Bond Proceeds allocable to refunding the Refunded Obligations, other than any premium and accrued interest which shall be deposited in the Debt Service Fund Account created above, shall be deposited in a refunding escrow account which is hereby created with the Escrow Agent, pursuant to the Escrow Agreement, for the purpose of retaining the required amount of cash, if any, and acquiring the United States obligations provided for in the Escrow Agreement.

Upon transfer of the Bond Proceeds and any other necessary funds allocable to refunding the Refunded Obligations to the Escrow Account, the taxes heretofore levied to pay debt service on the Refunded Obligations shall be abated to the extent such transfer together with investment earnings thereon is sufficient to pay the principal of and interest on the Refunded Obligations, but such abatement shall not affect the County's pledge of its full faith, credit and resources to make such payments. The refunding escrow account created by the Escrow Agreement shall hereinafter serve as the debt service (or sinking) fund account for the Refunded Obligations. The Escrow Agent shall serve as custodian of said debt service (or sinking) funds.

Section 15. Bond Insurance. The Chairperson and County Clerk are authorized to agree to such additional provisions as any municipal bond insurer which makes a commitment accepted by the County to insure the Bonds may reasonably request and which are acceptable to the Chairperson and County Clerk, including provisions regarding restrictions on investment of Bond Proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices

to be given to the bond insurer. In addition, appropriate reference to the municipal bond insurance policy shall be made in the form of Bond provided herein.

**Section 16. Redemption of the Refunded Obligations.** The County Board of Supervisors hereby calls the Refunded Obligations for redemption on April 1, 2006 at the price of par plus accrued interest to the redemption date. The County hereby directs the Escrow Agent appointed above to cause a notice of redemption, in substantially the form attached to the Escrow Agreement, to be provided at the times and in the manner provided thereon.

**Section 17. Conflicting Resolutions; Severability; Effective Date.** All prior resolutions, rules or other actions of the County Board of Supervisors or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

SUBMITTED BY:  
PERSONNEL & FINANCE COMMITTEE

Motion by Supervisor Kline and seconded to adopt. Ayes: 34. Nays: 0. Excused: 2 - Farrey and Pech. Absent: 2 - Arne and Thompson. CARRIED.

**RESOLUTION NO. 104-102004: Accept Bid of Oshkosh Northwestern Company – Publish County Board Proceedings**

BE IT RESOLVED by the Winnebago County Board of Supervisors that the following bid be accepted and contract executed:

Bid of Oshkosh Northwestern Company, Oshkosh, Wisconsin, to publish the proceedings of the Winnebago County Board shortly after each session in the Oshkosh Northwestern in accordance with Chapter 985, Wisconsin Statutes, and as certified by the Wisconsin Department of Administration, the same to be for the period of April 1, 2004 through March 31, 2005.

STRAIGHT MATTER

- \$ .8009 per line
- \$ .6297 second insertion
- \$ .6297 third insertion
- \$ 2.3788 per line Double Column

DISPLAY OR BLOCK

- \$ 11.20 per Column Inch, daily
- \$ 8.80 per Column Inch, daily – second insertion

Submitted by:  
JUDICIARY & PUBLIC SAFETY COMMITTEE

Motion by Supervisor Rengstorf and seconded to adopt. Ayes: 34. Nays: 0. Excused: 2 - Farrey and Pech. Absent: 2 - Arne and Thompson. CARRIED.

Motion by Supervisor Robl and seconded to adjourn until 6:00 p.m. on Monday, October 25, 2004. CARRIED BY VOICE VOTE.

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,  
Susan T. Ertmer  
Winnebago County Clerk

State of Wisconsin)  
County of Winnebago) ss

I, Susan T. Ertmer, do hereby certify that the foregoing is a true and correct copy of the Journal of the Winnebago County Board of Supervisors for their regular meeting held October 19, 2004.

Susan T. Ertmer  
Winnebago County Clerk