

PROCEEDINGS  
OF THE  
BOARD OF SUPERVISORS  
Columbia County, Wisconsin

Portage, Wisconsin  
June 21, 2006  
7:00 P.M.

The Board of Supervisors of Columbia County convened in annual session at the Courthouse in Portage pursuant to law. Chair Harlan Baumgartner called the meeting to order.

All Supervisors were present, except Supervisor Stoltenberg, absent and Supervisor Jenkins arrived late.

Members stood and recited the Pledge of Allegiance.

A motion to approve the Journal of May 17, 2006, was made by Supervisor Boockmeier, second by Supervisor O'Neil. Motion carried unanimously.

The agenda was amended as follows: the resolution to "Authorize the Columbia County Board to expend \$22,000 for the projected deficit in the 2006 Elderly Nutrition Program" was removed from consideration. Motion to approve agenda as amended was made by Supervisor Boockmeier, second by Supervisor Hamele. Motion carried unanimously.

Chair Baumgartner indicated that Supervisory District 5 remains vacant. The County continues to look for candidates.

Chair Baumgartner invited supervisors to contact the County Clerk if interested in attending the Wisconsin Counties Association Conference, September 17-19 in LaCrosse.

The Wisconsin Counties Association (WCA) and the National Association of Counties (NACO) are looking for individuals willing to serve on committees. Chair Baumgartner indicated that the County would not reimburse Supervisors serving in either capacity. Further, he noted that the National Association of Counties (NACO) annual conference is scheduled for August 4-8 in Chicago.

Mayor Paul Fisk presented County Clerk Miller, with a certificate of recognition for service to municipal clerks.

Wendy Metcalf, Health and Human Services and Father Murphy, St. Mary's Church, gave a condensed presentation on the River Haven homeless shelter. The location of this shelter would be the former Pathfinder House.

Randy Thompson, Planning and Zoning Department, gave a PowerPoint presentation-updating Supervisors on the Columbia County Comprehensive Plan. A future Land Use meeting will be held July 19, 2006.

Supervisors Andler, Hutler and Ross reported on the 2006 Highway Conference.

The following appointments were announced:

- (1) Heather Tessman and Sharon Quade (Cambria); Julie Moskal (Lodi); Mary Gorman and Betty Meierdirk (Pardeeville); Eleanor McLeish (Portage); Harriet Keller (Poynette); and Peter Jensen (Rio); to the Local Library Board with terms to expire July 2009. On motion by Supervisor Pufahl, second by Supervisor Lloyd, the appointments were unanimously approved.
- (2) Carol Genrich Dugan and Donald Berger reappointed to the Zoning Board of Adjustments with terms to expire June 2009. On motion by Supervisor Hamele, second by Supervisor Ross, the appointments were unanimously approved.
- (3) Brian Landers to the City of Wisconsin Dells TIF Districts. On motion by Supervisor Boockmeier, second by Supervisor Martin, the appointment was unanimously approved.

**RESOLUTION NO. 24-06**

WHEREAS, the County Board last reviewed compensation for deputy coroners in 1994; and

WHEREAS, Resolution 42-94 established compensation for deputy coroners as follows:

\$72 per call (maximum of \$100 on the same day for two or more calls);

\$25 per cremation;

Other expenses to be reimbursed; and,

WHEREAS, the compensation for deputy coroners that was established in 1994 no longer accurately reflects the division of work between death investigations and cremations.

NOW, THEREFORE, BE IT RESOLVED, that effective on July 1, 2006, the compensation for deputy coroners is established as follows:

Death investigations - \$45 for first 4 hours, \$12 per hour thereafter.

Cremations - \$25 per call plus \$25 statutory payment per cremation.

Fiscal Note: None.  
Fiscal Impact: None.

Debra L.H. Wopat  
Susan Martin  
Robert R. Westby  
Robert L. Hamele  
John H. Tramburg  
FINANCE COMMITTEE

Motion was made to adopt the Resolution by Supervisor Westby, second by Supervisor Ford. The Resolution was unanimously adopted.

**RESOLUTION NO. \_\_\_\_\_**

WHEREAS, the Columbia County Commission on Aging's Elderly Nutrition Program is a necessary service to maintain the elderly and physically disabled in their homes; and,

WHEREAS, the Elderly Nutrition Program is on track to set a new record in number of meals served, both congregate and home delivered; and,

WHEREAS, a Waiting List has already been established for referrals to the Elderly Nutrition Program by authorization of the Columbia County Commission on Aging and the Columbia County Health & Human Services Board; and,

WHEREAS, the projected deficit for fiscal year 2006 for the Columbia County Commission on Aging's Elderly Nutrition Program is \$22,000; and,

WHEREAS, the Waiting List for the Elderly Nutrition's home delivered meals program will continue to be maintained.

NOW, THEREFORE, BE IT RESOLVED, that the Columbia County Board approve the expenditure of \$22,000 to cover the projected deficit in the program's 2006 budget.

BE IT FURTHER RESOLVED, that if the deficit is less than \$22,000, all unspent money will be returned to the General Fund.

Fiscal Impact:

J. Robert Curtis, DVM  
Timothy O'Neil, MD  
Robert Lane  
Jack Sanderson  
Sarah Lloyd  
Mary Cupery  
Charles Boursier, MD  
Janet Gardner, RN  
Susan Goethel  
HEALTH & HUMAN SERVICES BOARD

**RESOLUTION NO. 25-06**

WHEREAS, Attorney Mark L. Krueger filed a claim on behalf of Thomas Funk, Jr., in the amount of one million dollars for medicals and pain and suffering as a result of an accident that occurred on August 22, 2005; and,

WHEREAS, the Claim has been referred to the Judiciary Committee; and,

WHEREAS, the Judiciary Committee has reviewed the Claim and determined that it is without merit.

NOW, THEREFORE, BE IT RESOLVED, that the Columbia County Board of Supervisors denies the Claim filed by Attorney Mark L. Krueger on behalf of Thomas Funk, Jr.

Fiscal Note: NONE  
Fiscal Impact: NONE

Tom L. Jenkins  
Robert L. Hamele  
Andy Ross  
Barry Pufahl  
Richard C. Boockmeier  
JUDICIARY COMMITTEE

Motion was made to adopt the Resolution by Supervisor Pufahl, second by Supervisor Boockmeier.

The Resolution was unanimously adopted.

### **REPORT OF THE PLANNING AND ZONING COMMITTEE**

The Planning and Zoning committee having held a public hearing thereon pursuant to Section 59.69 Wisconsin Statutes, notice thereof have been given as provided by law and being duly advised of the wishes of the people in the areas affected hereby recommend as follows:

- (1) A petition by Robert and Patsy Peterson, Rio, WI, to rezone from Agricultural to Single Family Residence property on Hall Road, described as Lot 1 of Certified Survey Map Number 4527, Section 8, T10N, R11E, Town of Hampden on the 19<sup>th</sup> day of May, 2006 be approved as follows: To change from Agricultural to Single Family Residence, a parcel of land described as Lot 1 of Certified Survey Map Number 4527 located in Section 8, T10N, R11E, Town of Hampden.
- (2) A petition by the Town of Lodi, Lodi, WI, to rezone from Agricultural to Single Family Residence, property on Michael Drive, located in part of the SE ¼ of the SW ¼, and the SW ¼ of the SE ¼, Section 3, T10N, R8E, Town of Lodi on the 2<sup>nd</sup> day of May, 2006 be approved as follows: To change from Agricultural to Single Family Residence, a parcel of land located in part of SE ¼ of the SW ¼, and the SW ¼ of the SE ¼, Section 3, T10N, R8E, Town of Lodi.
- (3) A petition by Harold and Annette Currie, Arlington, WI, to rezone from Agricultural to Multiple Family Residence property at W8229 STH 60, described as Certified Survey Map Number 2632, Section 22, T10N, R9E, Town of Arlington on the 3<sup>rd</sup> day of May, 2006 be approved as follows: To change from Agricultural to Multiple Family Residence, a parcel of land described as Certified Survey Map Number 2632, Section 22, T10N, R9E, Town of Arlington.
- (4) A petition by Grand River Distribution, LLC, Johnson Creek, WI, to rezone from Agricultural to Industrial property on Cabbage Road, located in part of the N ½ of the N ½ of the NE ¼ of the SW ¼, Section 5, T12N, R12E, Town of Courtland on the 2<sup>nd</sup> day of May, 2006 be approved as follows: To change from Agricultural to Industrial, property located on Cabbage Road, located in part of the N ½ of the N ½ of the NE ¼ of the SW ¼, Section 5, T12N, R12E, Town of Courtland.

Douglas Richmond  
John H. Healy  
Philip Baebler  
Fred C. Teitgen  
Timothy J. O'Neil  
PLANNING AND ZONING COMMITTEE

Upon hearing no objection, Chair Baumgartner directed the report be accepted and placed on file.

### **ORDINANCE NO. Z338-06**

An Amending Ordinance

The Columbia County Board of Supervisors do ordain as follows: That Title 16 – Chapter 1, entitled “Zoning”, of the County Code, as passed by the Board of Supervisors on February 16, 1972 is hereby amended and added thereto as follows:

- (1) “To change from Agricultural to Single Family Residence”, (Robert and Patsy Peterson) a parcel of land located in Section 8, Town 10 North, Range 11 East, Town of Hampden, more particularly described as follows: PARCEL NUMBER 138.01 Lot 1, Certified Survey Map, No. 4527 Said parcel containing 40,790 square feet (0.936 acres), 25,040 square feet (0.575 acres), more or less.

- (2) "To change from Agricultural to Single Family Residence, (Town of Lodi) a parcel of land located in part of SE ¼ of the SW ¼, and the SW ¼ of the SE ¼, Section 3, T10N, R8E, Town of Lodi, more particularly described as follows: PARCEL NUMBER 46.08 Commencing at the South ¼ corner of said Section 3; thence N 00°26'15"E, 872.51 feet along the north-south ¼ line to the point of beginning; thence S89°23'29"W, 29.47 feet; thence N00°35'40"W, 235.00 feet; thence N89°19'03"E, 58.22 feet to the southwest corner of Lot 17, Block 29, 16<sup>th</sup> Addition to Harmony Grove; thence N89°21'16"E, 216.20 feet along the south line of said Lot 17 and the extension thereof to the east right-of-way line of Michael Drive; thence S00°35'40"E, 235.13 feet along the east right-of-way line of Michael Drive to the southwest corner of Lot 1, Certified Survey Map No.3450; thence S89°19'00"W, 66.01 feet; thence S89°23'29"W, 178.94 feet to the point of beginning. Containing 64,520 square feet or 1.48 acres, more or less.
- (3) "To change from Agricultural to Multiple Family Residence", (Harold and Annette Currie) described as Lot one (1), Certified Survey Map Number 2632, Section 22, T10N, R9E, Town of Arlington more particularly described as follows: PARCEL NUMBER 393.02 Lot one (1), Certified Survey Map Number 2632 Said parcel containing 37,190 square feet or .85 acres, more or less.
- ~~(4) To change from Agricultural to Industrial", (Grand River Distribution, LLC) a parcel of land located in Section 5, T12N, R12E, Town of Courtland, more particularly described as follows: PARCEL NUMBER 108 A parcel of land located in Section 5, T12N, R12E, Town of Courtland, Columbia County, Wisconsin, described as follows: Commencing at the W ¼ corner of Section 5, T12N, R12E; thence with the north line of the S ½ of Section 5; N89°01'01"E, 1341.35 feet to the point of beginning; thence N89°01'01"E, 1341.35 feet to a point; thence S0°15'45"E, 329.04 feet to a point; thence S88°59'29"W, 1338.73 feet to a point; thence N0°43'09"W, 329.61 feet to the point of beginning; Said parcel containing 10.13 acres, more or less. This rezoning effective upon the approval of a Conditional Use Permit for an ethanol plant and amending ordinance will expire two years from the date of adoption if the owner fails to obtain approval of a Conditional Use Permit permitting the construction and operation of an ethanol production facility on the subject property.~~

Harlan Baumgartner, Chair  
 COLUMBIA COUNTY  
 BOARD OF SUPERVISORS  
 Jeanne Miller  
 COLUMBIA COUNTY CLERK

DATE PASSED: June 21, 2006  
 DATE PUBLISHED: June 29, 2006

Motion was made by Supervisor Richmond to separate petition #4 from remaining three petitions.

First reading of items 1-3 of Ordinance.

Motion by Supervisor Boockmeier, second by Supervisor Stevenson, to suspend the rules and have the second reading of items 1-3 of the Ordinance by title only. The motion carried unanimously.

Second reading of items 1-3 of Ordinance.

Motion by Supervisor Ross, second by Supervisor DeYoung, to suspend the rules and have the third reading of items 1-3 of the Ordinance by title only.

The motion carried unanimously.

Third reading of items 1-3 of Ordinance.

Motion made by Supervisor Healy, second by Supervisor Baebler, to adopt items 1-3. Motion carried. The Ordinance was declared passed and is to be known as Ordinance Z338-06.

First reading of item 4 of Ordinance.

Motion by Supervisor Boockmeier, second by Supervisor Martin, to suspend the rules and have the second reading of item 4 of the Ordinance by title only.

Chair Baumgartner indicated this was a rezoning petition and that discussion would be allowed pertaining to whether or not this was a proper parcel of land to be rezoned industrial. He asked Director Bluemke to comment further. John Bluemke, Planning and Zoning Director, explained that protest petitions were filed with the County Clerk's Office. As part of the process, Corporation Counsel Ruf and Director Bluemke conducted a review of the petitions to determine if they were in compliance with State Statute 59.69(5)(e)(g). It was their combined opinion, that per statutes, the protest may be disregarded, by the County Board, for the following reasons:

- 1) While one petition is questionable as to property abutting the proposed rezoning, the petition states the total frontage as 329.04 and 1,338.73 feet respectively to the Grand River property. Combined this frontage is .49953 percent of the total perimeter of area, which falls short of the required 50 percent as required by statute to make the three fourths vote necessary.
- 2) The letter from Village of Cambria is not considered a valid protest petition. The description provided is that of a line and not an area of ownership; no legal instrument provided with the Village's petition establishes ownership of land containing Cabbage Road. Further, information on the Plat of Survey indicates the road was laid out by an order.

Director Bluemke indicated the communication from the Village should be considered informational only, not a valid protest petition.

Chair Baumgartner gave instructions to those wishing to speak regarding this zoning petition. In order to speak, a Supervisor must relinquish their time to that individual. Further, he asked that comments be brief and relate only to the rezone petition at hand.

Attorney John Miller, representing Grand River Distribution, indicated this was a petition to rezone a ten (10) acre parcel, located in the Town of Courtland, from Agricultural to Industrial. Attorney Miller gave a summary of activities that had led up to the consideration of this petition. The request for rezoning has been approved by the Planning and Zoning Department. In addition, the Town of Courtland unanimously voted in favor of the rezoning petition.

Supervisor O'Neil made a motion to table this petition until the next County Board Meeting so that protest petitioners have an opportunity to redefine their positions. Second was made by Supervisor Lloyd. Supervisor Lloyd stated she felt the vote on this issue-deserved consideration because of its importance to the Village and surrounding area.

Chair Baumgartner indicated this is a no debate motion. Supervisor Sanderson called Point of Order, indicating the debate was to suspend the rules to move to the second reading, which after some discussion it could be objected to automatically. He felt the result would have the same effect. Chair Baumgartner indicated that a motion to table was being considered at this point. He indicated that a roll call vote would be taken. Supervisor Hamele indicated this was not a motion to table, but rather a motion to delay and lay over and that discussion could continue. Chair Baumgartner consulted with Corporation Counsel Ruf and concluded when an item is postponed to a date certain, debate can continue until a vote is taken to suspend the rules and go to the second reading.

Supervisor Sanderson relinquished time to Jim Ebert, V. Cambria; Supervisor Stevenson relinquished time Dawn Gorsuch, V. Cambria; Supervisor Lloyd relinquished time to Dallas Buchholz, V. Cambria and Hannah West, V. Cambria; Supervisor Boockmeier relinquished time to Brett Hulse; Supervisor DeYoung relinquished time to Glenn Smits, Chair T. Courtland; Supervisor Healy relinquished time to Joanne Wingers, T. Courtland; Supervisor Jenkins relinquished time to Todd Potas, Natural Resources -lobbyist; Supervisor Andler relinquished time to Tim Perry, V. Cambria; and Supervisor O'Neil relinquished time to John Domino, V. Cambria.

Speakers opposing the rezoning discussed: inadequate size of the site, lack of benefit to the Village of Cambria and its school district, increased truck traffic burden on Village roads, increased noise, air quality issues, volatile chemicals, environmental issues and fluctuating water levels.

Speakers in favor of the rezoning petition listed efficiencies of operation: existing electrical/gas and rail service, maintaining agricultural land, market for agricultural product, financial benefit, economic growth and support of agriculture/farmers as a basis for supporting the petition.

Supervisor Nelson attended the Planning and Zoning meeting when this petition was discussed and was disappointed that the vote came back unanimously in favor of approving the rezoning request. He felt the Village of Cambria should have the right to determine whether the plant is located there. If the County Board votes to approve the petition, that right is taken away and the Village residents will have to deal with the noise, truck traffic, water and air quality issues and the close proximity of the site to the school.

Supervisor Pufahl, having visited the site, felt the proposed site was quite close to the school. Comparing the Friesland Plant site to the proposed Town of Courtland site, he commented, "This is not a good site". Supervisor Pufahl suggested that the railroad lines could be extended into Town of Courtland where the plant could be built.

Chair Baumgartner indicated that there is a motion to suspend the rules and go to the second reading.

The motion failed for lack of two-thirds vote as follows:

AYES: 17; NOES: 12; ABSENT: 1

AYES: J. Curtis, Gove, Hamele, Healy, Hutler, Landers, Lane, Martin, Ross, Salzwedel, Stevenson, Teitgen, Wopat, Andler, Boockmeier, Cupery and Baumgartner.

NOES: DeYoung, Ford, Jenkins, Lloyd, Nelson, O'Neil, Pufahl, Richmond, Sanderson, Tramburg, Westby and Baebler.

ABSENT: Stoltenberg.

Chair Baumgartner indicated that this zoning petition would be placed on the July calendar. At that meeting, the zoning petition will begin with a second reading on the Grand River Distribution, LLC. rezoning from agricultural to industrial.

As no further action would be taken on this petition, Chair Baumgartner allowed the public to leave the board chambers.

**ORDINANCE NO. 88-06**  
An Amending Ordinance

Section 16-1-5A is created to read as follows:

Sec. 16-1-5A Agricultural Overlay District

(a) Purpose. The purpose of this overlay district to help preserve farmland and some open space areas within the Agriculture District and to provide an ordinance alternative that can be used to maintain development density goals or requirements of various County and Town plans and ordinances. This Agricultural Overlay District must be applied in combination with the underlying base Agriculture District to impose regulations and standards in addition to those required by the base Agriculture Zoning District. Specifically, no structural development is allowed in this overlay district.

(b) General Provisions.

- (1) The provisions of the Agricultural Overlay District shall be applicable in those towns that have adopted County zoning. A Town shall have the authority to disapprove of a rezoning to the Agricultural Overlay District under the procedures of Sec. 59.69 (5)(e)e, 59.69 (5)(e)3m, and 59.69 (5)(e)6, Wisconsin Statutes.
- (2) No structures that require permits under Chapter 16 of the County Code of Ordinances are allowed in the District.
- (3) The proposed location or size of this overlay district should be consistent with any siting criteria listed within approved County and Town Plans and ordinances, but the size of the parcel to be rezoned to the district must be a minimum of 30 acres.
- (4) Land in this overlay district cannot be further divided or used together with other land not in the overlay district to achieve the acreage necessary to build a dwelling in Agriculture District.
- (5) A description of this overlay district shall be of sufficient detail that it can be accurately mapped and be able to determine the total acreage of the area to be rezoned. If deemed necessary, a metes and bounds description, plat of survey, or certified survey may be required.

(c) Permitted Uses

- (1) Floriculture, forest and game management, grazing, raising of grain, grass, mint and seed crops, raising of fruits, nuts and berries, sod and vegetable raising or other agricultural crops
- (2) Prairie and natural flora restoration projects
- (3) Open space uses

Section 16-1-13 (a)(10)(i) is amended as follows:

- i. ~~Bed and breakfast establishments, where such use falls within the definition of a home occupation.~~

Section 16-1-14 (a)(4)(4)(e) is amended as follows:

(a) Zoning Permit Required.

- (4) No zoning permit shall be required in any of the following cases:
  - a. ~~For any building on which work to the amount of Two Hundred Fifty Dollars (\$250.00) or more has been done prior to the approval of this Ordinance by the town board of the town in which such building is located.~~
  - b.a. For any accessory building of one hundred (100) square feet of floor area or less, provided such building conforms to all the District, setback, yard and open space requirements of this Ordinance.
  - c. ~~For any improvements or alterations to an existing building in the amount of Two Hundred Fifty Dollars (\$250.00) or less which shall not affect a change in use nor encroach upon any yard or open space.~~
  - d. ~~For any maintenance repairs regardless of cost.~~
  - e. ~~Buildings not used for human habitation which are used exclusively for agriculture.~~
  - f.b. For farm agricultural buildings and structures not for human habitation which are not permanently fixed to the ground and are readily removable in their entirety, when such proposed buildings are located outside of areas designated as protected shorelands; provided that this regulation shall not apply to roadside stands or permitted signs.

Harlan Baumgartner, Chair  
COLUMBIA COUNTY  
BOARD OF SUPERVISORS  
Jeanne Miller  
COLUMBIA COUNTY CLERK

DATE PASSED: June 21, 2006

DATE PUBLISHED: June 29, 2006

First reading of Ordinance.

Motion by Supervisor Boockmeier, second by Supervisor Andler, to suspend the rules and have the second reading of the Ordinance by title only. Supervisor Sanderson objected to the motion. Supervisor Lloyd asked that the second reading be postponed allowing more time to understand the implications of this Ordinance. Chair Baumgartner asked Director Bluemke to give a brief explanation of the Agriculture Overlay Ordinance

Director Bluemke indicated this is a device to better track deed restrictions in towns that have adopted County zoning.

Supervisor Lloyd questioned why the County couldn't track deed restrictions without creating an overlay district? In response, Director Bluemke indicated, this is proposed as an alternative to deed restrictions. As stated previously, the County is not a party to deed restrictions, towns are. This is an alternative to maintaining development. Further, he indicated the review process for the overlay district was the same as for any ordinance; the entire County Board would have an opportunity to review.

Supervisor Teitgen asked what was envisioned as "Open Space". Director Bluemke indicated it would be anything allowed in an agricultural district.

Supervisor Hamele inquired if marshlands would qualify in this overlay district.

Director Bluemke indicated that there are marshlands that are exclusive to agricultural districts and as long as they stay in an exclusive agricultural district, it would qualify for the agricultural overlay district.

Supervisor Sanderson opposed the passing of this Ordinance, citing no urgency. He would vote against suspending the rules and ask that the Ordinance be calendared until next month.

Supervisor Wopat indicated the request for tracking of deed restrictions originated from this Board. Planning and Zoning simply worked out a solution to accomplish that. An agriculture district is not changed as a result of this ordinance.

Supervisor O'Neil agreed with Supervisor Wopat comment that this Ordinance does not change what agricultural land is or can be used for. It is a device/mechanism by which the County can track deed restrictions, which is not done currently.

Chair Baumgartner called the motion and proceed with the second reading by title only.

The motion carried, not unanimously.

Supervisor Sanderson requested a roll call vote. Corporation Counsel advised either method roll call or show of hands was allowable.

The motion carried with a hand count as follows:

AYES: 25; NOES: 4

Second reading of Ordinance.

Motion to suspend the rules and go to the third reading was made by Supervisor Tramburg, second by Supervisor Gove.

Supervisor Lloyd appreciated the effort to track deed restrictions. However, she indicated that more time was needed before she could make a decision. She inquired whether other counties have a similar Agriculture Overlay Ordinance and if it works for them. Director Bluemke responded Iowa County and that the Ordinance before this Board, was very comparable. Supervisor Lloyd asked that this Ordinance not be considered until the County had completed its' comprehensive plan.

Supervisor Sanderson called for a roll call vote. The motion carried as follows:

AYES: 23; NOES: 5; ABSENT: 1

AYES: DeYoung, Ford, Gove, Healy, Hutler, Jenkins, Landers, Lane, Martin, O'Neil, Pufahl, Richmond, Ross, Salzwedel, Stevenson, Teitgen, Tramburg, Westby, Wopat, Andler, Baebler, Boockmeier and J. Curtis.

NOES: Hamele, Lloyd, Nelson, Sanderson and Cupery.

ABSENT: Stoltenberg.

Third reading of Ordinance.

Motion made by Supervisor Boockmeier, second by Supervisor Tramburg, to adopt. Motion carried, not unanimously.

The Ordinance was declared passed and is to be known as Ordinance 88-06.

### **ORDINANCE NO. 89-06**

The Columbia County Board of Supervisor Does Ordain as follows: That Title 23, Chapter 9 of the County Code, entitled "Dangerous Animals" is hereby created to read as follows:

**23-9-1 DEFINITIONS:** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance a reasonable application which protects human health and humane treatment of animals.

- (a) Animal means any member of the animal kingdom except human beings.
- (b) Animal Control Agency means the Columbia County Sheriff's Department and any other public or private agency delegated authority by the Columbia County Sheriff to enforce portions of this ordinance; or any public or private agency designated by the state, county supervisors or a municipality as their animal control agent.
- (c) Animal Control Officer means a designated contractor or officer of the Animal Control Agency.
- (d) Sheriff means the Columbia County Sheriff.
- (e) Sheriff's Department means the Columbia County Sheriff's Department.
- (f) Board of Supervisors means the Columbia County Board of Supervisors.



- (g) Dangerous Animal includes, but not limited to, all animals which are classified in the following animal families, which are subject to amendment by the Board of Supervisors:
  - (1) Canidae: e.g. wolves, coyotes, foxes, jackals, within the order Carnivora but excluding *Canis familiaris*, the domestic dog.
  - (2) Felidae; e.g. lions, tigers, jaguars, leopards, cougars, lynx, ocelots, bobcats, within the order Carnivora but excluding *Felis domestica*, the domestic cat.
  - (3) Ursidae; e.g. black bears, brown bears, grizzly bears, polar bears, of the order Carnivora.
  - (4) Cercopithecidae; e.g. baboons.
  - (5) Pongidae; e.g. gibbons, orangutans, chimpanzees, gorillas.
  - (6) Hyaenidae; e.g. hyaenas.
- (h) Keeping means the act of confining, harboring, maintaining, owning, or sheltering an animal.
- (i) Owner means any person confining, harboring, keeping, maintaining or sheltering an animal.
- (j) Person means any agency, association, business, club, company, corporation, firm, individual, institution, organization, partnership, syndicate, trust, trustee or any federal, state or local governmental agency or instrumentality of other entity recognized by the law as the subject of rights and duties. The feminine, masculine, singular or plural is included in any circumstance.
- ~~(k) Vicious Animal means an animal that has attacked and/or bitten a person without provocation.~~
  - ~~(1) Dogs used in security or police work shall not be classified as vicious dogs if a bite or bites occur while the dog is actually performing in such a capacity.~~
  - ~~(2) Dogs shall not be classified as vicious dogs if a bite or bites are inflicted upon a person who is at the time of the bite or bites, engaged in a criminal act against the person or property of another.~~
  - (3) Animals used in agriculture, as defined by the United States Department of Agriculture shall not be considered dangerous animals.

**23-9-2 DANGEROUS ANIMALS PROHIBITED:** No persons shall keep a dangerous animal in Columbia County except as allowed by subsection 23-9-3.

**23-9-3 EXCEPTION TO PROHIBITION OF DANGEROUS ANIMALS:** The prohibition contained in subsection 23-9-2 of this Ordinance shall not apply to the keeping of dangerous animals in Columbia County in secure containment under these circumstances:

- (a) Dangerous animals kept at state licensed veterinary hospitals, humane societies, licensed wildlife rehabilitators or animal control pounds for treatment or impoundment purposes.
- (b) Dangerous animals kept by federal, state, county and municipal authorities and their designees or veterinarians pursuant to the enforcement of this or any animal control ordinance.
- (c) Dangerous animals kept by governmental agencies, colleges or universities accredited by the North Central Association Commission on Accreditation and School Improvement, medical institutions or research laboratories for instructional or research purposes.
- (d) Dangerous animals kept in zoos owned and operated by a municipality.
- (e) Dangerous native animals kept in licensed game farms or for fur pelting businesses on properly zoned land.
- (f) Dangerous animals commercially exhibited for ten (10) days or less.
- (g) Animals being commercially transported through Columbia County.

**23-9-4 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS**

- (a) The Animal Control Officer may seize and remove any dangerous animal that is not kept under circumstances authorized in subsection 23-9-3 of this Ordinance or which is not confined under United States Department of Agriculture standards. Any dangerous animals seized may be euthanized by the Animal Control Officer. The Owner or keeper of a seized dangerous animal may be assessed for any costs incurred for capturing, maintenance, or euthanizing the animal.

- (b) A dangerous animal that kills or causes serious injury to a human being shall be immediately surrendered to the Animal Control Officer for euthanasia.

**23-9-5 DUTY TO SURRENDER A VIOLENT DANGEROUS ANIMAL/COST OF CONFINEMENT**

- ~~(a) No person shall continue to own or keep a vicious animal in Columbia County. Upon written notice by the Sheriff or his/her designee, an animal alleged to be vicious shall be surrendered to the Animal Control Officer for euthanasia. Unless a written authorization for euthanasia is signed by the Owner at the time of surrender, the animal shall be held for 2 working days after surrender, with the cost of confinement being assessed against the Owner.~~
- (a) ~~(b)~~ An Owner of a dangerous animal which has been seized may request that the Columbia County Circuit Court review the seizure. If an Owner requests review of the seizure of a dangerous animal, the animal shall remain in the custody of the Animal Control Agency during the pendency of the proceedings and the cost of confinement shall be assessed against the Owner.
- (b) ~~(c)~~ In an appeal from a seizure of a dangerous animal or an order to euthanize the animal, ~~the Circuit Court shall affirm~~ the decision of the Animal Control Officer *shall prevail* unless the Circuit Court finds that the decision was without a rational basis.
- (c) ~~(d)~~ Confinement of an animal shall be at a facility approved by the Animal Control Agency.

**23-9-6 UNCONTROLLED DANGEROUS ANIMALS PROHIBITED**

- (a) No person may suffer or permit a dangerous animal to be at large in Columbia County.
- (b) Any uncontrolled dangerous animal may be apprehended and impounded by the Animal Control Officer. The Animal Control Officer shall have the right to enter upon private property when it is necessary to apprehend an uncontrolled dangerous animal. Such entrance upon private property shall be in reasonable pursuit of an animal and shall not include entry into a domicile unless it be at the invitation of the occupant. An animal control officer denied entry to a domicile may initiate procedures regarding issuance of a search warrant.
- (c) Any peace officer or Animal Control Officer may humanely destroy an uncontrolled dangerous animal if apprehension of the animal would pose a risk of injury to the officer.

**23-9-7 DISPOSITION OF DISEASED AND INJURED UNCONTROLLED DANGEROUS ANIMALS**

- (a) The Animal Control Officer may euthanize a diseased or injured uncontrolled dangerous animal. The animal shall first be examined by a licensed veterinarian and the veterinarian shall determine whether or not euthanasia is required. A reasonable attempt to locate and notify the Owner of the animal will be made prior to euthanizing the animal.
- (b) If the disease or injury to the uncontrolled dangerous animal is of such severity that the animal could not humanely be treated, or the animal has a contagious or fatal disease as determined by the examining veterinarian, the animal may be euthanized immediately without an attempt to locate or notify the Owner. The Owner shall subsequently be notified, if possible.

**23-9-8 LIABILITY**

Nothing in this Ordinance absolves the keeper of an animal that inflicts injury to a person or property from financial responsibility for the animal's actions. Columbia County is not, by undertaking the enforcement of this Ordinance, creating any duty to third parties.

**23-9-9 ENFORCEMENT**

It shall be the duty of the Sheriff or his/her designee to enforce provisions of this Ordinance, and this duty may be delegated to his/her authorized representative. The Sheriff is authorized to enter into contracts with any person to enforce portions of this Ordinance.

**23-9-10 PENALTIES**

In addition to and without prejudice to the remedies contained herein, violation of the provisions of this Ordinance or failure to comply with any of its requirements shall be enforced in accordance with the Columbia County Code of Ordinances.

Harlan Baumgartner, Chair  
COLUMBIA COUNTY  
BOARD OF SUPERVISORS  
Jeanne Miller  
COLUMBIA COUNTY CLERK

DATE PASSED: June 21, 2006

DATE PUBLISHED: June 29, 2006

Chair Baumgartner indicated that the Ordinance would be read by title only since a copy had been provided prior to the Board Meeting. No objections were noted.

First reading of Ordinance.

Motion by Supervisor Boockmeier, second by Supervisor Ross to suspend the rules and have the second reading of the Ordinance by title only.

Supervisor DeYoung questioned why the Health Department was involved. Health and Human Services Director Roberts indicated that another county had a situation arise. No ordinance was in place, nothing could be enforced. The potential threat to the health of residents of the county, then fell on the Health Department, which is their purview. If an ordinance had been broken, it could have been enforced.

Supervisor O’Neil asked if the Ordinance should reflect both “Dangerous and Vicious Animals”? Corporation Counsel Ruf indicated the Resolution was created after many revisions and with a certain sense of expediency. A Vicious Animal Code, Title 23(8) exists and appeared to apply to both. The definition lists dogs as exempted since not all dogs are inherently dangerous.

Supervisor Ford suggested banning specific breeds of dogs as done in Dane County and Province of Ontario. Corporation Counsel Ruf indicated that was considered, but that no designation of dog breed was specified in the Ordinance.

Supervisor Landers spoke to the ten-day statutory quarantine requirements for animals that have bitten until proof of vaccination is established. Ruf did not feel the Ordinance needed to be amended to include that; it would be preempted as long as stated in State Statutes. He felt the Ordinances intent was to prevent exotic animals and that the definition of a vicious animal was vague.

A motion was made by Supervisor Landers to amend 23-9-1(k) to read: “Vicious Animal definition: any animal that has attacked and/or bitten a person without provocation, and deemed to be vicious by the animal control officer”. Second made by Supervisor Martin.

Supervisor Boockmeier indicated that there was some uncertainty in the wording. He indicated the Sheriff had concerns with assuming the responsibilities of the animal control agency for the County and interpreting the Ordinance.

Corporation Counsel Ruf indicated that the committee had similar discussions. State Statutes always takes precedent over local ordinances.

Supervisor J. Robert Curtis felt the Ordinance was an excellent Ordinance and recommended approval.

The motion to amend failed on a roll call vote as follows:

AYES: 12; NOES: 16; ABSENT: 1

AYES: Gove, Jenkins, Landers, Lloyd, Martin, O’Neil, Pufahl, Ross, Teitgen, Baebler, Boockmeier and DeYoung.

NOES: Ford, Hamele, Healy, Hutler, Lane, Nelson, Richmond, Salzwedel, Sanderson, Stevenson, Tramburg, Westby, Wopat, Aandler, Cupery and J. Curtis.

ABSENT: Stoltenberg.

Supervisor Wopat made a motion to remove 23-9-1(k), 23-9-1(k)(1) and 23-9-1(k)(2) and 23-9-5(a), dealing with vicious animals, making this ordinance a "dangerous" animal ordinance. Second was made by Supervisor O'Neil.

The motion to amend was approved on a roll call vote as follows:

AYES: 23; NOES: 5; ABSENT: 1

AYES: Gove, Hamele, Healy, Hutler, Landers, Lane, Lloyd, Martin, Nelson, O'Neil, Pufahl, Richmond, Ross, Salzwedel, Stevenson, Tramburg, Westby, Wopat, Andler, Baebler, Cupery, DeYoung and Ford.

NOES: Jenkins, Sanderson, Teitgen, Boockmeier and J. Curtis.

ABSENT: Stoltenberg.

Supervisor O'Neil made a motion to amend 23-9-5(c) to read: "In an appeal from a seizure of a dangerous animal or an order to euthanize the animal the decision of the Animal Control Officer shall prevail unless the Circuit Court finds that the decision was without a rational basis". Second made by Supervisor Wopat. Motion carried, not unanimously.

Supervisor Boockmeier made a motion to amend 23-9-5 to change the wording from "VICIOUS" to "DANGEROUS" in the title. Second was made by Supervisor O'Neil. Motion carried.

Supervisor Sanderson questioned, "licensed wildlife rehabilitator" in 23-9-3(a) and asked where a license is acquired and what the requirements are.

Supervisor Landers related his previous experience with an individual in the City of Wisconsin Dells. Even though the Dells had an ordinance banning wild animals, the individual argued that he was affiliated with the University of Wisconsin. Landers agreed with the intent of this Ordinance, but felt someone who is determined to do this, will find loopholes in the Ordinance resulting in a lengthy court battle.

Supervisor Sanderson suggested that supervisors vote to not suspend the rules.

Second reading of Ordinance.

Motion by Supervisor Boockmeier, second by Supervisor Martin, to suspend the rules and have the third reading of the Ordinance by title only.

The motion carried, not unanimously.

Motion was made by Supervisor Healy, second by Supervisor Salzwedel to adopt the Ordinance.

Motion carried, not unanimously. The Ordinance was declared passed and is to be known as Ordinance 89-06.

#### REPORT OF THE LAND & WATER CONSERVATION COMMITTEE For the Farmland Preservation Program

We, the Land and Water Conservation Committee, having received a copy of an application for a Farmland Preservation Agreement pursuant to Section 91.13 (2) Wisconsin Statutes have approved the following:

NAME

William & Evelyn Vander Galien

TOWN

Randolph

Robert Hamele  
John Healy  
Robert Stoltenberg  
Don Nelson  
John G. Stevenson  
Douglas Tessmann  
Land & Water Conservation Committee

On motion by Supervisor Hamele, second by Supervisor DeYoung, the Report was unanimously accepted.

Supervisor J. Robert Curtis moved adjournment of this meeting to Wednesday, July 19 at 7:00 p.m. Second made by Supervisor Ross. The motion carried unanimously. The meeting adjourned at 10:25 p.m.

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