

**Lincoln County Board of Supervisors
Meeting August 17, 2011**

The Lincoln County Board of Supervisors met at the Lincoln County Service Center, County Board Room, 801 N. Sales St., Merrill, in session assembled pursuant to law. Chair Lussow called the meeting to order at 6:00 p.m. Pledge of Allegiance followed. Roll was called with the following present: Bailey, Berndt, Bloomer, Caylor, Fox, Giese, Krueger, Lee, Loka, Lussow, Meyer, Mittelsteadt, Nelson, Pampuch, Rankin, Rusch, Saal, Simon, Weaver, Woller, and Zeitz (21). Alber arrived at 6:07 p.m.

- 4. a. Announcements – None
- b. Service Recognitions for August 2011
 The following employees were recognized:
 15 years: Dawn Dunbar – Clerk of Courts Office
- c. Appointments & Re-Appointments: None

- 5. Approval of Journal – M/S Caylor/Krueger to approve the minutes of July 20, 2011 as presented. Motion carried on a voice vote.

- 6. a. Letters, Petitions – In packet.
- b. Memorials – None

- 7. Reports of Standing & Special Committees:
 - a. 2011 Year-to-Date Budget Report – Finance Director
 - b. 2010 Audit Report and Management Communication – Dave Maccoux, Schenck SC and Finance Director
 - c. Administrative Coordinator’s Written Report - July - Randy Scholz - In packet.
 - d. Ad Hoc Committee Report – John Bailey

8. Resolutions and Ordinances for Board Action

- 1. a. Resolution 2011 -08-44
 Adopting Grievance Procedure Mandated by sec. 66.0509(1m), Wis. Stats.

WHEREAS, the Budget Repair Bill (Act 10) requires counties to establish a grievance procedure no later than October 1, 2011; and
 WHEREAS, any grievance procedure created under the Act 10 mandate must contain provisions that address employee discipline, employee terminations and workplace safety; and
 WHEREAS, the Personnel Committee recommends adoption of the attached written policy in satisfaction of the statutory mandate.
 NOW, THEREFORE BE IT RESOLVED, that the Lincoln County Board of Supervisors does hereby adopt the attached “Discipline & Grievance Procedure” (Date Issued: 9/2011). The Administrative Coordinator is directed to disseminate the written procedure to covered employees.
 Dated: August 17, 2011 Introduced by: Personnel Committee (Passed 5 – 0 on 8/1/11)
 Administrative & Legislative Committee (Passed 7 – 0 on 8/1/11) Fiscal Impact: unknown, though it will eliminate arbitrators fees

PERSONNEL POLICY PROCEDURE (rev 7/28/11)

SUBJECT: DISCIPLINE & DATE ISSUED: 9/2011 NO. GRIEVANCE
PROCEDURE

PURPOSE & SCOPE

The purpose of this policy is to provide guidance for employees and supervisors concerning discipline of county employees and to implement the grievance procedure mandated by Section 66.0509(1m), Wis.Stats. Nothing in this policy is intended to create a legally binding contract or to change the at-will nature of employment with the County of Lincoln, as the County reserves its' management rights to exclusively manage its' operations in the best interest of the taxpayers of the County.

This policy applies to post-probation employees not covered by a collective bargaining agreement. For employees who remain covered under a collective bargaining agreement, the terms of the bargaining agreement supersede this policy. For purposes of this policy, "employee" does not include: statutory or political appointees, limited term employees, seasonal employees, casual employees, temporary employees and independent contractors. This policy is subject to change and modification.

Employment with the County of Lincoln is voluntarily entered into and employees are free to resign at any time. Similarly, the County may terminate the employment relationship at will at any time for any reason or no reason, provided there is no violation of applicable federal, state or local law.

DISCIPLINARY ACTION

It is in the best interests of the employees and the County of Lincoln to ensure fair treatment of all employees and in making certain that disciplinary actions are prompt, uniform and impartial. The major purpose of any disciplinary action is to correct the problem, prevent recurrence and prepare the employee for satisfactory service in the future. The County reserves the management right, in its' sole discretion, to impose disciplinary action as may be appropriate to the particular circumstances.

An employee has access to this grievance procedure only as it relates to "workplace safety", "discipline" and "termination" as those terms are defined herein.

GRIEVANCE PROCEDURE

This procedure addresses issues concerning workplace safety, discipline and termination.

- A. For purposes of this policy, "workplace safety" means: any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety including safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, warning requirements, workplace violence and accident risk. "Workplace safety" does not include – without limitation by enumeration – safety of property or conditions of employment unrelated to physical health and safety matters including, but not limited to: hours, overtime, sick, family or medical leave, work schedules, breaks, termination, vacation, performance reviews and compensation. A grievance filed regarding workplace safety must be filed by the grievant claiming he or she has been personally affected by the alleged workplace safety violation. The affected employee(s) must propose a remedy for the alleged violation.

For purposes of this policy, "discipline" means: an employment action that results in disciplinary suspension without pay, disciplinary termination or disciplinary demotion. "Discipline" does not include termination, layoffs or workforce reduction activities, oral reprimands or warnings, written reprimands or warnings, plans of correction or performance improvement, performance evaluations or reviews, documentation of employee acts or omissions, administrative leave with or without pay pending investigation of misconduct or nonperformance, non-disciplinary wage, benefit or salary adjustments, changes in assignment, assignment location or other non-material employment actions.

For purposes of this policy “termination” means: a separation from employment by the employer for disciplinary or quality of performance reasons. “Termination” does not include: layoff, furlough, workforce reduction activities, job transfer, reassignment, non-disciplinary demotion, action taken as a result of an employee’s failure to meet the qualifications of the position, voluntary termination including without limitation quitting and resignation, job abandonment, retirement, contract non-renewal, end of employment due to disability, or end of employment and/or completion of temporary employment, seasonal employment, contract employment, part-time employment or assignment.

B. Every reasonable effort should be made by supervisors and employees to resolve any questions, problems or misunderstandings that arise. Accordingly, employees should first discuss complaints or questions with their immediate supervisor. Time spent in grievance meetings and hearings will not be considered as compensable work time.

C. Failure to process a grievance by the grievant within the time limit, or agreed upon extensions, shall constitute termination of the grievance. Failure of management to meet the time limits shall cause the grievance to move automatically to the next step in the procedure. Time limits may be extended by agreement in writing of the parties at any step of the procedure.

D. Timelines/Procedure.

1. If the problem cannot be resolved with the employee’s immediate supervisor, a written grievance (on the County’s specified form) may be filed with the department head, or designee in the absence of the department head, no later than seven (7) calendar days from the date that the employee first became aware, or should have reasonably been aware, of the condition or circumstance giving rise to the grievance. Where the grievance alleges a workplace safety violation, the grievant must propose a remedy for the alleged violation.
2. The department head, or designee, will provide a written response within fourteen (14) calendar days of receiving the grievance. The department shall provide a copy of its’ response to the Administrative Coordinator immediately.
3. The written decision provided by the department head or designee shall be final unless the employee files a written request (on the County’s specified form) with the Administrative Coordinator no later than seven (7) calendar days of the date of the response required by paragraph 2 above.
4. The Administrative Coordinator, or designee, will provide a written response within fourteen (14) calendar days of receiving the grievance.
5. The written decision shall be final unless the employee files a written request (on the County’s specified form) with the Administrative Coordinator no later than seven (7) calendar days of the date of the response by the Administrative Coordinator or designee for a hearing before the Personnel Committee.
6. If the Personnel Committee Chair determines that the grievant has met the required timelines for the grievance process, a hearing shall be conducted as soon as practicable. This determination is not subject to appeal. The hearing may or may not be transcribed, subject to the Committee Chair’s discretion.
 - a. Representation. The grievant shall have the right to representation (limited to one person) during the hearing and appeal at the grievant’s expense. The representative shall not be a material witness to the dispute.
 - b. Burden of Proof and Production/Evidence. Witnesses may present information but only in person and written documents may also be submitted, subject to the

Committee's discretion. The appealing party carries the burden of production of evidence and the burden of proof which shall be clear and convincing evidence. The rules of evidence shall not be strictly followed, but no factual conclusions may be based solely on hearsay evidence. Not less than ten (10) calendar days prior to the hearing, the grievant and the County shall exchange lists of witnesses and documentary evidence that they intend to introduce at the proceedings. The Committee may request oral or written closing arguments and replies.

- c. Decision/Standard. The Committee shall provide a written decision. The Committee must answer the following question:

1) for workplace safety violation allegation(s): Based on evidence presented, has the grievant proven by clear and convincing evidence violation(s) of any standard(s) established under state law or rule or federal law or regulation relating to workplace safety?

2) for discipline or termination grievances: Based on the evidence presented, has the grievant proven by clear and convincing evidence the decision of the Administrative Coordinator was arbitrary or capricious?

7. The decision of the Personnel Committee shall be final unless the employee files with the Administrative Coordinator a request for the decision to be reviewed by the Board of Supervisors no later than fourteen (14) calendar days from the date of the hearing decision issued by the Personnel Committee/Chair. The Board of Supervisors shall review the matter as soon as practicable. The Board shall examine the Personnel Committee's written decision and determine whether a rational basis exists for the written decision. The Board shall not conduct a new hearing, take testimony, supplement the record nor substitute its judgment for that of the Personnel Committee. The Board assumes that the decision of the Committee is correct and valid. A two-thirds (2/3) vote of the board members shall be required to overturn the decision of the Committee. Absent the County Board vote required to overturn the decision, the decision of the Personnel Committee shall be final. The minutes of the County Board will reflect its' action on the appeal.

M/S Lee/Caylor to adopt. Following discussion, motion carried on a majority voice vote, with Alber, Bloomer and Rankin voting no.

b. Resolution 2011-08-45

Approving A Loan to Morning View Dairy from the Revolving Loan Fund

WHEREAS, Lincoln County has established a revolving loan fund, and,
WHEREAS, after public meeting and due consideration, the Revolving Loan Fund – Loan Review Committee has recommended approval of the application submitted under the Natural Disaster Recovery Provision of the Revolving Loan Fund, to the Administrator, for the loan application from Morning View Dairy.

WHEREAS, it is necessary for the County Board to approve the application;

NOW, THEREFORE BE IT RESOLVED, that the County Board does approve and authorize the loan for the above-named project; as recommended by the Revolving Loan Fund – Loan Review Committee and County Finance and Insurance Committee.

Dated this 17th day of August 2011 Introduced by: Revolving Loan Fund – Loan Review Committee and County Finance and Insurance Committee Committee Action: Revolving Loan Fund – Loan Review Committee;

recommended approval, July 14, 2011. County Finance and Insurance Committee Action: August 12, 2011

Fiscal Impact: \$20,000 Loan

M/S Mittelsteadt/Simon to adopt. Following discussion, motion carried on a voice vote.

c. Resolution 2011-08-46

Approving A Loan to Russell Zoellner DBA Zoellner's Greenhouse from the Revolving Loan Fund

WHEREAS, Lincoln County has established a revolving loan fund, and,
 WHEREAS, after public meeting and due consideration, the Revolving Loan Fund – Loan Review Committee has recommended approval of the application submitted under the Natural Disaster Recovery Provision of the Revolving Loan Fund, to the Administrator, for the loan application from Russell Zoellner, (DBA Zoellner's Greenhouse).

WHEREAS, it is necessary for the County Board to approve the application;

NOW, THEREFORE BE IT RESOLVED, that the County Board does approve and authorize the loan for the above-named project; as recommended by the Revolving Loan Fund – Loan Review Committee and County Finance and Insurance Committee.

Dated this 17th day of August 2011 Introduced by: Revolving Loan Fund – Loan Review Committee and County Finance and Insurance Committee Committee Action: Revolving Loan Fund – Loan Review Committee; recommended approval, July 14, 2011. County Finance and Insurance Committee Action: August 12, 2011 Fiscal Impact: \$20,000 Loan

M/S Caylor/Woller to adopt. Following discussion, motion carried on a voice vote.

2. a. ORDINANCE 2011-08-572
 Solid Waste Regulations - updated

An Ordinance Amending the General Code of the County of Lincoln (Chapter 15.03 & 15.04 - Solid Waste regulations)

The County Board of Supervisors of Lincoln County, Wisconsin, does hereby ordain:

Chapter 15.03 is amended as follows:

15.03 DESIGNATION OF WASTE OIL COLLECTION FACILITY. (Am. #198-91 #245-94)

Pursuant to ~~§159.15~~ 287.15, Wis. Stats., the County Board establishes a waste oil collection facility site at the County Landfill located at the NW 1/4 of the SE 1/4 of Section 3, T32N, R7E.

Chapter 15.04 is amended as follows:

15.04 MATERIALS BANNED FROM LANDFILL. (Cr. #198-91)

(1) Pursuant to ~~§159.07~~ 287.07, Wis. Stats., and County policy, the following materials shall not be deposited in the County landfill. These items, however, may be accepted at the landfill for recycling purposes only.

- (a) Used engine oil.
- (b) Lead acid batteries.
- (c) Major appliances.
- (d) Tires.

(2) Pursuant to ~~§159.07~~ 287.07, Wis. Stats., as of January 1, 1993, yard waste shall be banned from the landfill. (Am. #249-94)

(3) Pursuant to ~~§159.07~~ 287.07, Wis. Stats., as of January 1, 1995, aluminum containers, corrugated paper and other container board, foam polystyrene, glass containers, magazines, newspaper, office paper, plastic containers, steel containers and bi-metal steel/ aluminum containers shall be banned from the landfill. Also, no waste containing any banned item can be landfilled unless it originates from within a municipality that has an effective recycling program. (Cr. #249-94)

(4) Pursuant to §287.07, Wis. Stats., as of September 1, 2010 electronic devices including facsimile machines, digital video disc players, digital video players or recorders, video cassette recorders, televisions, computer monitors, telephones with video display, and other kinds of electronic devices identified by the Department of Natural Resources under §287.17(10)(i) are banned from the landfill.

(5) Pursuant to §287.07, Wis. Stats., as of January 1, 2011 oil filters and oil absorbent materials are banned from the landfill.

This ordinance shall take effect following its passage and publication. Dated: August 17, 2011. Introduced by: Solid Waste Committee Date Passed: July 28, 2011 (3 to 0) Fiscal Impact: None

- M/S Loka/Bloomer to adopt. Following discussion motion carried on a voice vote.
9. Reports of Claims – None.
 10. M/S Caylor/Krueger to approve the mileage and per diem for this meeting. Motion carried on a voice vote.
 11. Next County Board Meeting: Tuesday, September 20, 2011, 2011 at 6:00 p.m. at the William Buedingen Training Room, W6147 State Road 86, Tomahawk.
 12. M/S Krueger/Caylor to adjourn. Motion carried on a voice vote. Meeting adjourned at 6:34 p.m.

I, Sheila Pudelko, County Clerk in and for said Lincoln County, Wisconsin do hereby certify the within and foregoing is a true and accurate recital of all proceedings by and before the Board of Supervisors at their regular meeting, August 17, 2011.

Sheila Pudelko, County Clerk