

**WAUPACA COUNTY BOARD OF SUPERVISORS
COUNTY BOARD SESSION
December 19, 2017**

Chair Koeppen called the meeting to order at 9:00 a.m. with 25 members present.

Present: Suprs. Boyer, Craig, Ellis, Federwitz, Flease, Gabert, Handrich, Johnson, Jonely, Kietzmann, Koeppen, Kussmann, McClone, Much, G. Murphy, Neumann, Nygaard, Penney, Poehlman, Rohan, Spierings, Wilfuer, Zaug. Suprs. Barrington and Sorensen were excused, Supr. T. Murphy arrived at 9:10 a.m., and District 8 is vacant.

Chair Koeppen made the open meeting statement that this meeting and all other meetings of this board are open to the public. Proper notice has been posted and given to the press, in accordance with Wisconsin Statutes so the citizenry may be aware of the time, place and agenda of this meeting.

A moment of silent meditation was observed followed by the Pledge of Allegiance.

Supr. Zaug moved and Supr. Much seconded the motion approving the agenda. Motion carried 23-0. Passed the 19th day of December, 2017.

Supr. McClone moved and Supr. Poehlman seconded the motion approving the minutes of the December 4, 2017 special meeting. Motion carried 23-0. Passed the 19th day of December, 2017.

**PUBLIC HEARING ON THE PROPOSED REPEAL AND RECREATION OF
CHAPTER 47 OF THE WAUPACA COUNTY CODE OF ORDINANCES,
VOLUNTARY CONSERVATION EASEMENT DONATION**

Supr. Ellis moved and Supr. Handrich seconded the motion to open the public hearing on the proposed repeal and recreation of Chapter 47 of the Waupaca County Code of Ordinances, Voluntary Conservation Easement Donation. Motion carried 23-0. Chair Koeppen opened the public hearing and asked if anyone would like to speak.

Chair Koeppen called 3 times for public input. Being no input, Supr. Johnson moved and Supr. Spierings seconded the motion to close the public hearing and reconvene into regular session. Motion carried 23-0. Passed the 19th day of December, 2017.

**REPEAL THE WAUPACA COUNTY CODE OF ORDINANCES
Chapter 47,
Waupaca County Voluntary Conservation Easement Donation Ordinance
and Recreate**

The Waupaca County Board of Supervisors does hereby ordain that the current Waupaca County Voluntary Conservation Easement Donation Ordinance, Chapter 47 of the Waupaca County Code of Ordinances be repealed in its entirety and recreated with the Waupaca County Voluntary Conservation Easement Donation Ordinance, Chapter

47 of the Waupaca County Code of Ordinances, a copy of which is on file in the County Clerk's Office.

EFFECTIVE DATE

Approval of the Land & Water Conservation Committee and the Legislative, Judicial, Ethics, Safety and Security Committee and upon enactment of the County Board of Supervisors, the amendment will be in full force and effect within Waupaca County and each Town as provided in Section 59.14(1), Wis. Stats.

Approved on the 19th day of December, 2017.

23 ayes 0 nays

ATTEST:
/s/ Jill Lodewegen
Waupaca County Clerk

APPROVED AS TO FORM:
/s/ Diane I. Meulemans
Corporation Counsel

Supr. Nygaard moved and Supr. Zaug seconded the motion to repeal and recreate Chapter 47 of the Waupaca County Code of Ordinances. Motion carried 23-0. Passed the 19th day of December, 2017.

**AMENDMENT TO CHAPTER 34 OF THE
WAUPACA COUNTY CODE OF ORDINANCES
2017-642, Town of Lebanon**

TO THE COUNTY BOARD OF WAUPACA COUNTY:

Petition #Z-021-17, Town of Lebanon

The Waupaca County Planning & Zoning Committee, having considered the above petition on the 16th day of November, 2017 by **Adam D. Moder** for a Petition for Zoning Map Amendment from an SR (Sewered Residential) District to an RR (Rural Residential) District with an after the fact Conditional Use Permit application to allow for Animal Husbandry (two horses) in a residential district on approximately 5.217 acres.

The following described lands: Located in part of the SE ¼ of the SW ¼ of Sec. 33, Town of Lebanon, lying at the end of Prah Road, Fire Number E8260, Waupaca County, Wisconsin. (Parcel #11-33-34-6)

Having held public hearings thereon, pursuant to the Wisconsin Statutes, notice thereof having been given as provided by law, and being duly informed of the facts pertinent to the changes proposed, and duly advised of the wishes of the people in the area affected, hereby recommends as follows:

Based on the testimony presented at the public hearing, the Committee decided to **GRANT** the Petition for Zoning Map Amendment and Conditional Use Permit application due to the following:

- The Town of Lebanon Planning Commission and Town Board have both recommended approval of this request and it is consistent with the Town's Comprehensive Plan.

Waupaca County Planning & Zoning Committee on November 16, 2017.

By: /s/ John F. Penney, Chairman

This ordinance shall be in full force and effect in the Town of Lebanon upon filing with the County Clerk of Waupaca County a certified copy of a resolution of the Town Board of Supervisors of said town approving said ordinance or forty (40) days after the adoption of the ordinance by County Board, unless a certified copy of a resolution disapproving the amendment is filed within ten (10) days with the County Clerk within that time.

Certification of County Board Approval: 24 ayes 0 nays

I, Jill Lodewegen, Waupaca County Clerk

do hereby certify that the above Zoning Amendment was enacted by the County Board on December 19, 2017

/s/ Jill Lodewegen, Waupaca County Clerk

Supr. Federwitz moved and Supr. Kussmann seconded the motion to approve the amendment to Chapter 34 of the Waupaca County Code of Ordinances. Motion carried 24-0. Passed the 19th day of December, 2017.

**AMENDMENT TO CHAPTER 34 OF THE
WAUPACA COUNTY CODE OF ORDINANCES
2017-643, Town of Dayton**

TO THE COUNTY BOARD OF WAUPACA COUNTY:

Petition #Z-022-17, Town of Dayton

The Waupaca County Planning & Zoning Committee, having considered the above petition on the 14th day of December, 2017 by **Scott B. & Stacy Jo Salan** for a Petition for Zoning Map Amendment from an AWT (Agriculture and Woodland Transition) District to an RR (Rural Residential) District to acquire additional development rights in order to divide their parcel which is approximately 5.7 acres.

The following described lands: Located in part of the W ½ of the NE ¼ of Sec. 1, Town of Dayton, lying along Skyview Lane, Fire Number N2355, Waupaca County, Wisconsin. (Parcel #03-01-12-7)

Having held public hearings thereon, pursuant to the Wisconsin Statutes, notice thereof having been given as provided by law, and being duly informed of the facts pertinent to the changes proposed, and duly advised of the wishes of the people in the area affected, hereby recommends as follows:

Based on the testimony presented at the public hearing, the Committee decided to **GRANT** the Petition for Zoning Map Amendment due to the following:

- The Town of Dayton Planning Commission and Town Board have both recommended approval of this request and it is consistent with the Town's Comprehensive Plan.

Waupaca County Planning & Zoning Committee on December 14, 2017.
By: /s/ John F. Penney

This ordinance shall be in full force and effect in the Town of Dayton upon filing with the County Clerk of Waupaca County a certified copy of a resolution of the Town Board of Supervisors of said town approving said ordinance or forty (40) days after the adoption of the ordinance by County Board, unless a certified copy of a resolution disapproving the amendment is filed within ten (10) days with the County Clerk within that time.

Certification of County Board Approval: 24 ayes 0 nays

I, Jill Lodewegen, Waupaca County Clerk
do hereby certify that the above Zoning Amendment
was enacted by the County Board on December 19, 2017.
/s/ Jill Lodewegen, Waupaca County Clerk

Supr. Poehlman moved and Supr. G. Murphy seconded the motion to approve the amendment to Chapter 34 of the Waupaca County Code of Ordinances. Motion carried 24-0. Passed the 19th day of December, 2017.

AN ORDINANCE TO CREATE S. 49 ENTITLED "PROPERTY ASSESSED CLEAN ENERGY FINANCING" OF THE GENERAL CODE OF WAUPACA COUNTY, WISCONSIN

The County Board of Supervisors of the County of Waupaca does ordain as follows:

Section 1. Section 49 is created to read:

49 PROPERTY ASSESSED CLEAN ENERGY FINANCING.

(1) **PURPOSE.** The County finds that renovations or additions to premises located in the County made to improve energy efficiency, improve water efficiency, and/or use renewable resource applications, increase property values, stimulate local economic activity, provide local and global environmental benefits, and promote the

general welfare of County residents. The purpose of this Section is to facilitate loans arranged by property owners or lessees to make such improvements by treating loan principal and interest, fees, and other charges as special charges eligible for inclusion on the tax roll for these properties.

(2) STATUTORY AUTHORITY. This ordinance is enacted pursuant to Wis. Stat. §66.0627, as amended, which authorizes a County to make a loan or enter into an agreement regarding loan repayments to a 3rd party for owner-arranged or lessee-arranged financing, to an owner or a lessee of a premises located in the County for making or installing an energy efficiency improvement, a water efficiency improvement or a renewable resource application to a premises.

(3) DEFINITIONS. In this section:

(a) “Annual installment” means the portion of the PACE loan that is due and payable for a particular year under the supplemental agreement.

(b) “Borrower” means the property owner or lessee of the subject property that borrows the proceeds of a PACE loan.

(c) “Default loan balance” means the outstanding balance, whether or not due, of a PACE loan at the time that the County receives foreclosure proceeds.

(d) “Foreclosure proceeds” means the proceeds received by the County from the disposition of a subject property through an *in rem* property tax foreclosure.

(e) “Loan amount” means the principal, interest, administrative fees (including the Program Administrator’s fees) and other loan charges to be paid by the borrower under the PACE loan.

(f) “PACE” means the acronym for property assessed clean energy.

(g) “PACE” default provisions” means:

1. The delinquent annual installment(s) due when the County initiates the *in rem* property tax foreclosure on the subject property;

2. Any additional annual installment(s) that become due between the time that the County initiates *in rem* property tax foreclosure on the subject property and the date the County receives the foreclosure proceeds;

3. Any default interest charges applied to unpaid annual installments referenced in subs. (1.) and (2.) above, as provided in the supplemental agreement; and

4. Any default loan balance.

(h) "PACE lender" means any person that makes a PACE loan, and which may include an affiliate of the borrower.

(i) "PACE loan" means a loan made by a PACE lender to a borrower under this Section for energy efficiency improvements, water efficiency improvements, or renewable resource applications made to or installed on a subject property.

(j) "Person" means any individual, association, firm, corporation, partnership, limited liability company, trust, joint venture or other legal entity, or a political subdivision as defined in Wis. Stat. §66.0627.

(k) "Program Administrator" means the person retained by the Wisconsin PACE Commission as provided in subsection (5)(b).

(l) "Subject property" means any premises located in the County on which an energy efficiency improvements, water efficiency improvements, or renewable resource applications are being or have been made and financed through an outstanding PACE loan.

(m) "Supplemental agreement" means a written agreement among a borrower, a PACE lender and the County, as provided for in subsection (7).

(n) "Wisconsin PACE Commission" means the Wisconsin PACE Commission formed under Wis. Stat. § 66.0301, as amended, by the County and one or more other political subdivisions as defined in Wis. Stat. §66.0627, pursuant to a Joint Exercise of Powers Agreement relating to the Wisconsin PACE Commission.

(4) PACE LOANS AS SPECIAL CHARGES; DELINQUENT AMOUNTS AS LIENS. Any PACE loan made and secured pursuant to this Section shall be considered a special charge on the subject property. Any annual installment or portion of a PACE loan made and secured pursuant to the Section that becomes delinquent according to the terms of the PACE loan shall be a lien against the subject property and placed on the tax roll, as permitted pursuant to Wis. Stat. §66.0627 as amended.

(5) WISCONSIN PACE COMMISSION.

(a) Any of the powers and duties of the County under this Section, except for those under subsection (9) may (but are not required to) be delegated to the Wisconsin PACE Commission.

(b) The Wisconsin PACE Commission is further authorized to retain a Program Administrator to act as its agent and administer the PACE program, subject to adherence with PACE program requirements set forth in this Section and in Wis. Stat. §66.0627 as amended.

(6) LOAN APPROVAL.

(a) A prospective borrower applying for a PACE loan shall comply with the loan application process set forth in the program manual approved by the County.

(b) The County shall approve the financing arrangements between a borrower and PACE lender.

(7) SUPPLEMENTAL AGREEMENT.

(a) The County, the borrower and the PACE lender shall execute the supplemental agreement which, without limitation:

1. Shall inform the participants that the PACE loan amount shall be imposed as and considered a special charge, and each year's annual installment may be included on the property tax roll of the subject property as a special charge and an annual installment that is delinquent shall be a lien against the subject property pursuant to Wis. Stat. §66.0627, as amended;

2. Shall recite the amount and the term of the PACE loan;

3. Shall provide for the amount, or a method for determining the amount, of the annual installment due each year;

4. Shall provide whether default interest may be applied to unpaid annual installments;

5. Shall require the PACE lender and the borrower to comply with all federal, state and local lending and disclosure requirements;

6. Shall provide for any fees payable to the County and/or Program Administrator;

7. Shall recite that the supplemental agreement is a covenant that runs with the land;

8. May provide for prepayments of annual installments by the borrower with a resulting reduction in the special charge for the prepayment, subject to any prepayment premium charged by the PACE lender, if any; and

9. May allow for amendment by the parties.

(b) Prior to executing the supplemental agreement, the owner of the subject property, if different from the borrower, and any existing mortgage holder(s) on the subject property must have executed a separate writing acknowledging the borrower's use of PACE financing for the subject property and the special charge that will be imposed under this Section and its consequences, including the remedies for collecting the special charge.

(c) Each PACE loan shall be amortized over the term of the PACE loan as provided in the supplemental agreement.

(d) The annual payments of a PACE loan may be payable in installments as authorized by Wis. Stat. §66.0627, as amended.

(8) ANNUAL INSTALLMENTS ADDED TO TAX ROLLS. Upon the request of the Program Administrator the County shall place each year's annual installment on the tax roll for the subject property as permitted pursuant to Wis. Stat. §66.0627, as amended.

(9) REMITTANCE OF SPECIAL CHARGES. The County shall promptly remit to the Wisconsin PACE Commission any payment(s) for a special charge imposed under this Section, including penalties and charges thereon, it may receive from any taxing district or the County treasurer pursuant to Wis. Stat. Ch. 74, as amended.

(10) PROPERTY TAX FORECLOSURE PROCEDURES.

(a) The County elects to utilize the provisions of Wis. Stat. §75.521, as amended, for the purpose of enforcing tax liens if a subject property owner fails to pay any special charges imposed on the subject property under this Section as required.

(b) The County shall begin an in rem property tax foreclosure proceeding on the subject property at the earliest time allowed under Wisconsin Statutes, unless the County determines that subject property is a "brownfield" (as defined in Wis. Stat. §75.106, as amended) or that in rem property tax foreclosure is not in the best interests of the County due to the condition of the property or for other reasons.

(c) If the County has determined that it will not commence an in rem property tax foreclosure proceeding, then the PACE lender may request that the County, pursuant to Wis. Stat. §75.106, as amended, assign the County's right to take judgment against the subject property, provided that the PACE lender and the County fully comply with all provisions of Wis. Stat. §75.106, as amended, concerning the subject property and the PACE lender agrees to pay the amounts required by Wis. Stat. §75.36(3)(a)1 and 1m, as amended.

(11) SALE OF FORECLOSED PROPERTY. If the County prevails in an in rem property tax foreclosure action against a subject property, the County shall diligently proceed to sell the subject property pursuant to the procedures set forth in Wis. Stat. §75.69, as amended.

(12) DISTRIBUTION OF FORECLOSURE PROCEEDS. The County treasurer shall follow the procedures set forth in Wis. Stat. §75.36, as amended, to distribute the proceeds from the sale of a subject property.

Section 2. This Ordinance shall take effect the day after passage and publication as required by law.

Supr. Ellis moved and Supr. Zaug seconded the motion to adopt Ordinance 49 of the Waupaca County Code of Ordinances. Motion carried 24-0. Passed the 19th day of December, 2017.

RESOLUTION NO. 29 (2017-2018)

SUBJECT: Become member of the Property Assessed Clean Energy (PACE) Commission

WHEREAS, pursuant to Wis. Stat. §66.0301, two or more municipalities of the State of Wisconsin, may by contract create a commission for the joint exercise of any power or duty required or authorized by law; and

WHEREAS, Waupaca County is a “municipality” as that term is defined in Wis. Stat. § 66.0301 and a political subdivision located in the State; and

WHEREAS, Waupaca County is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare, which may be accomplished by various means; and

WHEREAS, Wis. Stat. §66.0627(8) authorizes a city, a village, a town and a county in this State to, among other things, make a loan to or otherwise arrange, participate in or facilitate the financing of an energy improvement, a water efficiency improvement or a renewable resource application to a real property within its jurisdiction and to provide for such financing through the imposition of a special charge against the property benefitted by the energy or water efficiency improvement or renewable resource project; and

WHEREAS, such financings are commonly referred to as “Property Assessed Clean Energy” or “PACE” financings; and

WHEREAS, Waupaca County has determined that it is in the public interest to provide real property owners, lessees, lenders and other transaction parties in Waupaca County with access to a uniformly-administered program for PACE financing; and

WHEREAS, Waupaca County and other counties, with the support and counsel of the Wisconsin Counties Association, League of Wisconsin Municipalities, Green Tier Legacy Communities and other stakeholders, have studied the possibility of creating a commission pursuant to Wis. Stat. §66.0301 to be known as the Wisconsin PACE Commission (“Commission”); and

WHEREAS, the Wisconsin PACE Commission would be formed and operated in accordance with a Joint Exercise of Powers Agreement Relating to Wisconsin PACE Commission (“Commission Agreement”) of which a substantially final draft is attached to this Resolution; and

WHEREAS, it is in Waupaca County’s best interests to join the Wisconsin PACE Commission and authorize the execution of the Commission Agreement; and

WHEREAS, in accordance with Wis. Stat. §66.0627 and the provisions of the Commission Agreement, Waupaca County must adopt an Ordinance relating to the administration of PACE financings in Waupaca County and throughout the State (“PACE Ordinance”); and

WHEREAS, attached to this Resolution is proposed Ordinance No. 49 which will be considered at the same meeting at which this Resolution is being considered (“PACE Ordinance”); and

WHEREAS, adoption of the PACE Ordinance is a necessary condition to Waupaca County entering into the Commission Agreement; and

WHEREAS, it is the intent of this Resolution to authorize Waupaca County to become a member of the Commission and authorize a duly-appointed representative of Waupaca County to finalize and execute the final Commission Agreement in substantially the form of the draft Commission Agreement attached to this Resolution;

SO, NOW, THEREFORE, BE IT RESOLVED: That the Waupaca County Board of Supervisors hereby approves the draft Commission Agreement, a copy of which is attached to this Resolution, and authorizes and directs the Waupaca County Board Chair to sign such document after receipt of preliminary approval from the other participating municipalities, approval from the Waupaca County official duly-appointed to approve the final form of the Commission Agreement and approval of the Waupaca County Corporation Counsel; and

BE IT FURTHER RESOLVED: That the Chair of the Waupaca County Board of Supervisors is hereby directed to appoint a board supervisor to act as Waupaca County’s official representative in relation to the final approval of the form of the Commission Agreement and to otherwise take all action necessary to effectuate the intent of this Resolution; and

AND BE IT FINALLY RESOLVED: That Supervisor DuWayne Federwitz is designated as the Waupaca County “Representative Director” of the Board of Directors of the Commission in accordance with the Commission Agreement, he or she to serve at the pleasure of the Waupaca County Board of Supervisors

RECOMMENDED FOR INTRODUCTION BY WAUPACA COUNTY FINANCE & HUMAN RESOURCES COMMITTEE: /s/ DuWayne Federwitz, Gary Barrington,

Patricia Craig, G. Robert Flease, Dick Koeppen, Gerald Murphy, David Neumann, John F. Penney

ATTEST:
/s/ Jill Lodewegen
Waupaca County Clerk

APPROVED AS TO FORM:
/s/ Diane Meulemans
Corporation Counsel

Supr. Handrich moved and Supr. Nygaard seconded the motion to approve Resolution No. 29 (2017-2018). Motion carried 24-0. Passed the 19th day of December, 2017.

REPORTS

WAUPACA COUNTY INDUSTRIES UPDATE Nancy Leipzig, Regional Program Director Community Care Chuck Price, DHHS Director

Chuck Price and Nancy Leipzig updated the Board on the status of the former WCI clients.

PLANNING & ZONING 2017 Report Ryan Brown, Planning & Zoning Director

Ryan Brown reported that the first zoning ordinance was adopted November 8, 1967 and reviewed the 2017 report.

COUNTY BOARD CHAIR REPORT

Chair Koeppen reminded supervisors of the WCA Annual Legislative Exchange.

Chair Koeppen thanked all the veterans for their service and asked them to introduce themselves and their branch of service.

APPOINTMENTS

Supr. G. Murphy moved and Supr. Zaug seconded the motion appointing Thiago and Felicia Souza to the Birth-3 Early Intervention Program/Children's Community Options Program Advisory Committee. Motion carried 24-0. Passed the 19th day of December, 2017.

Supr. Spierings moved and Supr. McClone seconded the motion appointing Dave Steffens to the Nutrition Advisory Council for a 3-year term. Motion carried 24-0. Passed the 19th day of December, 2017.

Supr. Johnson moved and Supr. Nygaard seconded the motion appointing Supr. Craig to the Aging & Disability Resource Committee. Motion carried 24-0. Passed the 19th day of December, 2017.

Supr. G. Murphy moved and Supr. Handrich seconded the motion reappointing Supr. Kietzmann to the Nutrition Advisory Council for a 2-year term. Motion carried 24-0. Passed the 19th day of December, 2017.

ANNOUNCEMENTS AND CORRESPONDENCE

Clerk Lodewegen announced that the 2018 Official County Newspaper will be the Waupaca County Post.

Chair Koeppen placed the following correspondence for December on file in the County Clerk's Office: WCEDC Monthly Report and 5th Annual Hunger and Homelessness Summit.

Supr. Zaug moved and Supr. T. Murphy seconded the motion to adjourn. Motion carried 24-0. Chair Koeppen declared the meeting adjourned at 10:30 a.m.

Jill Lodewegen
Waupaca County Clerk