

MINUTES
LEGISLATIVE COMMITTEE
June 21, 2022

Members Present: Brian Thomas, John Poole, Andy Berg, Amanda Nedweski, Zach Stock, Daniel Gaschke, Monica Yuhas

Excused:

YIG: Present: Sona Hawkins,

Others Present: Joseph Cardamone, John Franco, Erin Decker

6:00 PM

1. Call to Order: The meeting was called to order by Chair Brian Thomas

6:01 PM

2. Citizen comments: Jodi Merhoff- 7220 1st ave. Here to speak to 2nd amendment sanctuary on the resolution. CB Prioritizing protecting guns. Still shocking we are prioritizing guns as the valded children are laid to rest. Sandy Hook, a surge in the 2nd amendment resolutions after a massacre. CB Seems to believe this is the most important issue in our county. Federal law is supreme to state law. If federal and state law conflict, Federal law is supreme authority. Fears lawlessness if resolution passes. Respectfully asks that use time that will actually improve the quality of life for the people in Kenosha County.

David Warranacle 7521 35th ave- Ms. Merhoff said what he was thinking. If the federal govt passes law you don't like pertaining to guns, does that mean we do not honor that law? He does not agree with it and it does not make sense. People's lives are more important than people's guns.

Carol 6675 235th Ave Paddock Lake- Thanks committee for their time. On average 110 people die daily from gun violence. Over 640 people die from gun violence. 190 die in WI from gun violence. Guns are leading cause of death among children and teens in WI. Gun violence costs wi millions of tax payers dollars every year. Universal background checks and extremeist protection orders. EPO passed by other countries have been upheld in states courts and courts are the perfect forum to
It is improper and dangerous for our county to pass this resolution. It would undermine our trust in the community. Please do not pass these resolutions

Gail 7624 18th ave- concerned about 2 issues, about lifting gun ban in CO Buildings and allowing the CE to fire at will. Kenosha has a good CO govt. These people have been working in our system for a long time. The heads of depts worked their way up and has not heard any wrongdoings from the people in department head. She does not believe this is the time to start getting rid of people just because the CE does not like them for whatever reason. They deserve all the other protection the other County employees receive. Moving up on a hierarchy of a ladder does not mean you have less rights but should have equal rights. She personally believes that this is a terrible practice to have a CE have the power to fire at will and should be left to the HR dept to take are of these issues.

6:01 PM

3. Reports from Chairperson: Purposely left this agenda small since we did not know what to expect with citizens comments

6:02 PM

4. Reports from Committee Members: Nedweski read every single email in opposition to the firearms related resolutions and tried to reply to every single person. She takes it very seriously and there is a broad spectrum of feedback.

6:02 PM

5. Communications: Did not have an opportunity to reach out about the Genesis house.

6:32 PM

6. Approval of March 15, 2022 minutes: **Supervisor Gaschke made a motion to approve. Seconded by Supervisor Stock. All aye. Motion passes. YIG Aye. Motion Carries?**

6:03 PM

7. Resolution 2nd Amend: Supervisor Poole discusses the resolution. Supervisor Gaschke would like to be clear that this resolution has been brought up in 2020 and failed. He is against this resolution. He is not against guns as he is a gun owner, but he is anti-bad government and bad policy. We are a legislative policy. Our job is to write laws, statues, and ordinances; our job is not to determine if a law is unconstitutional. We swore to uphold our constitutional duties to uphold the law. Allow the people in robes to decide if the law is unconstitutional if we do not like the law, go through the proper channels. Our responsibility is to write good policy and encourage our community to follow it. Supervisor Nedweski asks Supervisor Poole about the current 562 undocumented jurisdictions that are 2nd amendment sanctuaries-LISTEN TO AUDIO

Could you maybe describe the possibility of federal or state law for this sanctuary to protect us from- Supervisor Poole talks about Red Flag Laws (if someone thinks you are dangerous- they can report you and strip you from your firearms). From overzealous actions from our Sheriff's department- this is our constitutional right to protect. Nedweski asks Gaschke- we are a legislative body that does not determine the constitutionality, she is going on record to disagree with that. She thinks that we have Corp Counsel to converse with. We are talking about the 2nd amendment right and if theres a federal law, that says you can no longer own a rifle at 18. Are they going to protect the 18 year olds or take the rifles from them? This sanctuary will protect those 18 year olds, we had it before and they cant take it away. We should not ignore constitutionality

Sup Gaschke- Clarifies that he didn't say we shouldn't ignore the constitution when we write laws. There is an appropriate legal process it should follow and not every law is perfectly written but that is for the robes to decide

Yuhas to Corp Counsel- LISTEN TO AUDIO- Does federal govt supersede county policy. As a general matter yes, federal matter would trump state or local law. Yuhas- even if this res passed, and federal law came down- this would not hold any merit.

Joe-without speaking to any of the merits- I am not in the position to advise anyone to violate or ignore the law.

Yuhas to Poole- Asking CB to not appropriate any funds for gun buy backs for example. Yuhas states the resolution is very vague and she would not vote until it is clear. Yuhas makes a motion to remove second beit – Gaschke seconded.

Discussion on amendment to remove- Sup. Poole states that Corp Counsel helped with changes regarding this resolution. Joe clarifies this is from the WCA who had other clients from counties that had a similar resolution.

Nedweski agrees with Yuhas that we should be more explicit regarding the funds. We do not want to put the safety of the community at risk. Stock reworded to say “any additional funds”

Supervisor Berg agrees with Yuhas- the example with the gun buy back programs- those take illegal guns off the street, correct?

Erin Decker- gun buy back programs force people to sell their guns back- None in USA but there are some in other countries.

Sup Yuhas not entertaining any amendments to the wording, only removal. Vote for removing the second be it with further result

Yuhas-aye, Gaschke-aye, Berg-aye, Poole-aye, Stork-nay, Thomas-aye, Nedweski-nay.

Removal passes 4 to 3.

Supervisor Decker suggests that the resolution go back through Corp Counsel and rewritten. She states there was a second amendment sanctuary state resolution that went up but was ultimately vetoed by the governor.

Joe- Spoke with WCA and shared concerns that there is a possibility that there is over breath that the county board 1. Dealing with possible separation of powers issue- how to conduct/enforce law enforcement 2. Questions of supremacy and whether it is a place for CB supervisors to determine whether law is constitutional. Suggestions WCA made -clean up language- bottom of first page technical matter, While you are elected representatives you are expressing people of the board. Goes through the changes the WCA Suggested with the committee.

Supervisor Deckers opinion, likes the language of we the people, thinks adding the 2nd amendment is fine. Fine with cleaning up the language and does not believe we need to delete the whereas as it is a statement or a fact, we do not take action on these. In favor of striking the first be it further resolved as it.

Supervisor Poole makes a motion to move to make the changes discussed. Seconded by Nedweski. Supervisor Berg clarifies changes.

Sup Stock- First be it further resolved – rewriting

The sheriff makes decision on executive order

Nedweski asks Joe why it was recommended to strike – Joe on the grounds that the resolution violates separation of powers from legislative branch to judicial branch. Presumption of constitutionality when a law has been passed.

Sup Stock is speaking strictly regarding Executive orders.

Supervisor Franco- “any legislation” is so broad- the last paragraph – seems to him that nothing in principal could be unconstitutional. Be it further resolved is where the action takes place. How do we as a legislative body determine that? Joe states that is a policy statement that it is the opinion of the board that such legislation that would be unconstitutional that their opposition to the legislation to be the same.

Sup Berg- Supports the original amendment that removes the first be it further resolved. Changing the language doesn't do anything to change it in his eyes. He will not support the current amendment stating it is unlawful.

Supervisor Decker- we are not telling the sheriff to do anything here, but we are affirming supporting whatever decision the sheriff actually makes.

Nedweski to joe -in the event the CB passes the amended resolution. Could you please clarify here how this affects the role of the sheriff? Does it tell the sheriff what to do? Does it empower him to ignore a law? D

Joe-as written it does not appear to specifically direct the sheriff in one way or another.

Ned- so in theory the CB passes resolution, new sheriff this fall- what authority would this resolution have over the sheriff in enforcing laws?

Joe-It provides guidance, support, if a sheriff decides to take it upon himself which laws to enforce or not enforce.

Nedweski- in theory the sheriff could ignore the resolution ?

Joe- if he ignores it and could have funding taken away

Nedweski- it is not directing the sheriff it is just saying we support the sound discretion.

Joe- that is a fair read, it does appear to provide.

Nedweski- In theory this whole resolution is a

The CB has no way to legally enforce a sheriff to do this.

the board does not have a legal right over the Sheriff. IT is not an enforceable resolution. This is an opinion of the county board.

Joe- It could be viewed as inspirational, yes.

Vote on amendment- Berg- all of the changes minus the delete. All Aye Motion passes.

Discussion on the twice amended resolution- Supervisor Berg-Original question-what is the economic benefit to the county? Poole- taxes, ammunition sales, Berg- nothing beyond what we already have?

Does this provide grants from the state or federal government? Poole- not that I'm aware of.

Berg- Strike, 2nded Gaschke

Fails- berg gashcke 7:08p

Original Resolution as amended- Yuhas to Joe-

Would like to add be it further resolved if the federal government passes firearms legislation that legislation supersedes this resolution.

Nedweski- passing this amendment null and voids the entire resolution.

Yuhas- why do we have this if it is unenforceable and federal law supersedes county and the sheriff- this is what's wrong with government. If this is an opinion piece, then that's what it is, it has no merit. Its pomp and circumstance.

Gaschke to Joe- from your legal prespective it is presumed if a law is passed by a legislative body- it is constitutional. Until it is challenge din court and determined unconstitutional. This really comes down to one question. Sup Poole, who determines what is constitutional? Poole- it is asking the Sheriff to consider what he is doing before taking away peoples rights. It is the responsibility of the sheriff to determine the constitutionality of every law?

Poole he is the chief, yes.

Nedweski- 550 sanctuary communities in which federal law is not being followed or enforced. What is being done in those sanctuary cities? Local people supporting outright denial of law. We are drawing the same analogy here by saying no we cannot enforce this but it is up to the sheriff to decide. This is merely a statement from the CB saying we support the 2nd amendment and will do our best to defend it.

Sup. Stork will not be supporting the amendment. He says it shows the support to the sheriff in that when he has to make a decision that is not crystal clear.

Berg- advise vs. affirms? Nedweski states it affirms support of the sheriff.

Supervisor Would like to add be it further resolved if the federal government passes firearms legislation that legislation supersedes this resolution.

Yuhas-Aye, Gash aye, Berg aye, poole- nay, stork nay, thomas nay, Nedweski nay. FAIL

Supervisor Berg makes motion to amend last paragraph removing the word Tyranny. No seconded.

Yuhas-Aye, Gash aye, Berg aye, poole- nay, stork nay, thomas aye, Nedweski aye. Amendment Passes.

Call to question. All Aye. Motion Passes.

Vote on Resolution as amended three times. Yuhas-Aye, Gash nay, Berg nay, poole- aye, stork nay, thomas aye, Nedweski aye. Resolution passes.

Berg- motion to adjourn, Yuhas 2nd- will address next resolution on the next meeting

All aye motion passes.

6:48 PM

9. Adjourn: **Supervisor Berg made a motion to adjourn, seconded by Supervisor Yuhas. All Aye. Motion Carried**

Respectfully submitted,
Michelle Peralta
Corporation Counsel