



MINUTES OF AN OFFICIAL MEETING:

Regular Meeting: **Board of Review**

Date and Time: **Monday, June 14, 2021 @ 1:00 pm**

Location: **City Hall Council Chambers, 2000 N Calhoun Rd, Brookfield WI**

6 Members Present: *Alderman Bill Carnell, Randall Freeman, Tom Koch, Alderman Jerry Mellone, Michael Post and David Schneider*

1 Member Not Present: *Dale Casper*

Others Present: *City Clerk Kelly Michaels, City Attorney Jenna Merten, Ass't City Attorney Julie Aquavia, City Assessor Allan Land, Appraiser Nick Garcia, Office Services Ass't Mai Chang*

1. Roll Call and Confirmation of Meeting Notices. (1st Day in Session – 2 hour Minimum)

Clerk Michaels took attendance and determined there was a quorum. She then provided information regarding the required meeting notices in accordance with Chapter 19 of Wisconsin Statutes. Notice of the meeting was posted in three public places (City Hall, Public Library and Brookfield Post Office) and was published in the City's Official Newspaper, "The Freeman" on May 14, 2021. The notice was also posted on the City's website on a page dedicated to the Board of Review.

2. Election of Officers (Chairman and Vice Chairman)

Clerk Michaels requested nominations from the floor for the position of Chairman for the 2021 Board of Review.

Motion by Tom Koch, second by Alderman Mellone to nominate David Schneider as the Chairman of the Board. Motion carried unanimously.

Chairman Schneider requested nominations from the floor for the position of Vice Chairman for the 2021 Board of Review.

Motion by Alderman Mellone, second by Michael Post to nominate Tom Koch as the Vice Chairman of the Board. Motion carried unanimously.

3. Minutes of the prior meeting: August 19, 2020 and April 27, 2021

Motion by Alderman Mellone, second by Michael Post to approve the minutes as presented. Motion carried unanimously.

4. Training Certification Requirements pursuant to ss 70.46(4) Wisc. Statutes

Clerk Michaels explained the Board must have at least one member in attendance that has attained certified training within the past two years. She reported five members are certified and there are 4 members present at the meeting, who have met the training requirement. She noted for the record that she had completed and submitted the affidavit form PA-107 to the Wisconsin Department of Revenue containing the names of all of the members who met the training certification (Michael Post, Board of Review

David Schneider, Gerald Mellone, Randall Freeman, present and Dale Casper who was not present today).

5. Reminder to Board Members: Ordinance 1710 related to the Confidentiality of Information about Income and Expense required by the City Assessor in Property Assessment Matters

Clerk Michaels stated the confidentiality ordinance was included in the meeting packets and was for informational purposes. Binders containing information relative to the objection filings were left behind at the end of the meeting in order to secure the information contained within.

6. Board of Review Rules and Procedures Policy

Attorney Jenna Merten presented the Rules and Procedures Policy noting the proposed draft was mostly completed by Attorney Aquavia. She explained that the prior adopted policy had utilized a template policy from another municipality (Wauwatosa) however after further review, they felt the Board would have an easier time if it were a little more streamlined to remove statutory processes that we are all following anyway. The proposed revision addresses: what the filing is; that the City Clerk is the Clerk for the Board; good cause as well as extraordinary circumstances; when you review a waiver and the issuing of subpoenas.

Attorney Aquavia agreed with Attorney Merten's summarization of the streamlining which included removal of rules that repeat statutory obligations and procedures or information that is already contained in the Department of Revenue's training materials and "Guide for Board of Revenue Members". She explained that she also tried to focus on making sure it was very clear as to what forms should be used. She noted that in particular she wanted to make sure it was clear that every year the agent form be a new form for that filing year as every year's Board of Review is a new assessment unit. She noted she rearranged some things to mirror the flow of the meeting and included the Board's past decisions in regards to telephone testimony adopted in 2015 or 2016 and reaffirmed several times since then. The rules confirm that objections should be done in writing if possible. They also specify the average hearing times for presenting residential cases as 20 minutes for each side and commercial cases at 1-1/2 hours for each side. That is not to say the Board couldn't set those times differently if they feel it is appropriate for the particular case or they determine there is additional or less time needed, keeping in mind the board does need time to ask questions, discuss the case and make a determination following the presentation of the case from both sides. She noted the last thing is that if an objector is represented by legal counsel who is not designated as the agent on the authorization form, they need to provide a notice as to who will be presenting the case: property owner, agent or legal counsel versus multiple people. She indicated these are the major changes over the prior year's policy.

Motion by Alderman Carnell, second by David Schneider to adopt the revised Rules and Procedures Policy as presented. Motion carried unanimously.

7. Assessor's Report on the Values and Trends in the City of Brookfield

Assessor Land presented written reports titled DOM Analysis dated 1/1/2021; Yearly Market Comparison comparing the entire MLS as of Wednesday, May 12, 2021, by property types (Single Family and Condominiums). He noted that he is also a realtor and real estate broker so he has access to the MLS listings. He reported the average number of days on market in 2020 for Waukesha County was 29 days which is slightly less than the 32 days on market from the prior year. The residential market is still hot as the number of buyers are outpacing the number of properties available for sale. He noted that more than 90% of sales are through a realtor so the MLS listing is a very good indicator of what is going on in the market. He pointed out the number of new listings is down due to the tight market with the

lack of available properties and added, this is a national trend not just in Brookfield. Trends we are seeing include more people migrating into the Milwaukee metropolitan area which also contributes to more buyers than inventory. We are also seeing more people giving up on building new homes due to significant increases in building costs that is also fueling sales into the existing home market. Additionally, we are seeing increases in the area of leasing as prices climb and inventory falls as people are riding it out, to let the market cool off. The assessment ratio for Brookfield is currently at 91%. The Department of Revenue requires a complete revaluation within 4 years when your assessment to sales ratio falls below 90%. For Brookfield, it isn't really an issue as our policy is to have a revaluation every 4 years anyway.

With regard to commercial properties and Covid, there was definitely a hit on the leisure and lodging industry particularly with hotels. Education and health services were also impacted. Restaurants were affected but harder hit were those that were limited to dine-in seating. Those that could easily adapt such as the fast food restaurants had banner years with drive through and take out service. In fact, many of the fast food restaurants are now working on opening new locations with smaller lobby footprints and large drive through and pick up capacities. Owners for office buildings are on hold as their tenant businesses are figuring out new operational aspects post covid with many employees still working from home or slowing returning. Loan programs assisted businesses in staying afloat during Covid and we are seeing them open up a little more now, so it is still a little early to see what will happen long term. Vacancies for industrial properties are going down and lease rates are increasing due to the rising trend of online purchasing which is creating a need for large area storage facilities. As it relates to net new construction Brookfield and New Berlin led the way again in 2020. Brookfield has enjoyed a tremendous amount of new construction growth for the fourth year in a row with nearly \$100 million again in 2020. There is still quite a bit of growth in New Berlin, however with the space for new growth being limited in Brookfield, it may not be sustainable going forward.

Alderman Carnell questioned the impacts to businesses. Assessor Land indicated it is mixed and depends on the type of business. He noted some retailers were closed but others such as restaurants did fine or are recovering while others are still determining their opening strategies. Alderman Carnell questioned the offices such as those on Executive Drive. Assessor Land noted the building owners really can't react until their tenants react so that market has stayed the same for now. He stated there are no extra concessions as far as rents are concerned right now.

8. Receive the Assessment Roll and Sworn Affidavit of the City Assessor

Assessor Land submitted the signed sworn affidavit and Clerk Michaels confirmed receipt of it and noted for the record that it would be placed on file.

9. Examination, correction of errors and certification of corrections if warranted and acceptance of the assessment roll following a determination that open book changes are included in the assessment roll presented.

Assessor Land presented the 2021 Statement of Real Estate Assessment and 2021 Statement of Personal Property Assessments for review by the Board members.

Chairman Schneider noted they would take approximately 15 minutes to review the roll. He invited members to look up their own assessments as well as assessments of any other properties they'd like to check. He noted they would recess the audio recording for this purpose and then resume to take up the remainder of the agenda at 1:45 pm. Upon resumption of the meeting, Chairman Schneider asked members if they had a chance to review the rolls and whether they wished to accept the roll as presented, indicating if so, he'd take a motion at this time.

Motion by Alderman Carnell, second by Alderman Mellone to accept the 2021 Assessment Roll as presented. Motion carried unanimously.

10. Review objections for acceptability and schedule, deny or waive hearings for written objections received. Consider Assessor’s request for Subpoena(s) as needed.

(1) Clerk Michaels introduced the following property owner record for an objection filed:
(06142021Track 2: 0:45-6:28):

Record Description	Detail	Record Description	Detail
Parcel No.	BRC 1111-985-001	Land Value	\$ 3,785,000
Owner Name:	BR Brookfield Commons #1 LLC	Improvements:	\$ 8,896,600
Property Address:	15375 W Bluemound Road Unit 100	2021 Assessment:	\$ 12,681,600
Documents Filed:	Notice of Intent, Objection to Assessment Form, Agent Authorization (Chad Zeznanski), Telephone Testimony Request, Rec'd by email 6/7/2021 @ 4:51 pm	Objector's Opinion of Value:	\$ 10,000,000

Attorney Aquavia speaking on behalf of the City Assessor, noted they would like to ask the Board to deny scheduling a hearing for the objection based on all of following reasons:

- The agent authorization form is not signed by a member of the owner LLC but by a property management company which does not, in fact, indicate that it is a member of the owner LLC, and therefore would lack authorization to sign the agent authorization form.
- This property also supplied the same agent authorization form in 2017 as well as in 2020, signed by an LLC that does not seem to be a member of the owner, Brookfield Commons LLC which means we have no indication that the person or entity has the ability to sign the agent authorization form.
- We’ve rejected these forms in the past, both in 2017 and 2020, therefore they should know by now that what they’ve submitted is not accurate.
- Additionally, the form is dated January 2020 and while they indicate it has not expired, they are using a Department of Revenue form from 2012 which is not the current agent authorization form. However, more importantly the 2020 Board of Review process is closed and there is nothing further pending so it is our belief that the agent authorization submitted would not apply to the 2021 Board of Review year.

Board member Tom Koch questioned whether the objector was notified of the prior year’s rationale for denying their hearing. Attorney Aquavia responded yes, and noted that for the 2017 objection, it was Mr. Koch who made the motion to schedule a hearing contingent on them submitting proof that the person who signed the agent authorization would in fact have that authorization to sign. She indicated she believed they never supplied the proof required to clear the contingency as a hearing was never scheduled nor held in 2017. In 2020 a denial of hearing was made for the same reason and the Clerk sends copies of the minutes to notify filers of the denial. Therefore they should be aware of our prior objections to their filings.

Attorney Merten advised the Board that pursuant to the rules they adopted last year the objection, when made by an agent, must include a completed PA-105 agent authorization form, signed by the owner. See Rule 7 (B) as follows:

(B) Who may file. Objection to an assessment may be made by the owner of the property or the owner's agent. If the objection is made by an agent, a completed Wisconsin Department of Revenue Agent Authorization form PA-105, signed by the owner of the property, shall be filed with the objection form.

Motion by Alderman Carnell, second by Michael Post to not accept the objection and DENY a hearing for property owned by BR Brookfield Commons #1 LLC located at 15375 W Bluemound Road for the reason of insufficient filing and to direct the Clerk to notify the owner/agent of the hearing denial. Motion carried unanimously.

(2) Clerk Michaels introduced the following property owner record for an objection filed: (06142021Track 2: 6:28-10:45):

Record Description	Detail	Record Description	Detail
Parcel No.	BRC 1150-994-018	Land Value	\$ 3,959,800
Owner Name:	Pinnacle Property Holdings LLC	Improvements:	\$ 19,191,200
Property Address:	13935 Bishops Drive	2021 Assessment:	\$ 23,151,000
Documents Filed:	Notice of Intent, Objection to Assessment Form, Agent Authorization (Chad Zeznanski), Telephone Testimony Request, Rec'd by email 6/7/2021 @ 4:51 pm	Objector's Opinion of Value:	\$ 19,500,000

Attorney Aquavia speaking on behalf of the City Assessor requested the Board also deny a hearing for this objection filing for the following reasons.

- The agent authorization form is not signed by a member of the owner LLC, but it was signed by a property management company which from all indications is not a member of the owner LLC, Pinnacle Property Holdings LLC and therefore is not authorized to sign the agent authorization form.
- In 2017 when we notified them that they didn't have the proper signature on the agent form, they sent us a copy of the property management agreement which they claimed would authorize them to sign the form, however the agreement did not, in fact, provide that authorization. In 2017 we contingently scheduled the hearing to give them time to get that proper document to us, however we reviewed it and did not hold a hearing in 2017. This property was represented in 2017 and 2020 by the same tax representative agent. The filing was denied a hearing last year, 2020 for the same reason and form, therefore at this point in time, the owner and tax agent should know by now what they need to provide as far as an accurate and authorized agent form.
- The agent authorization submitted was dated for January 2020 and while it does indicate that it does not expire, they are using an older (2012) Department of Revenue agent form.
- The 2020 Board of Review is closed and there are no ongoing proceedings for that assessment and therefore we believe this authorization would not be current for the 2021 Board of Review.

Motion by Alderman Mellone, second by Michael Post to not accept the objection and DENY a hearing for property owned by Pinnacle Property Holdings LLC located at 13935 Bishops Drive for the reason of insufficient filing and to direct the Clerk to notify the owner/agent of the hearing denial. Motion carried unanimously.

- (3) Clerk Michaels noted for the record that the objection filed by Cole MT Brookfield WI LLC at 16130 W Bluemound Road (BRC #1116-002) had been withdrawn by the objector in writing via email. Therefore no action is required.
- (4) Clerk Michaels noted for the record that the objection filed by Cole MT Brookfield WI LLC at 16020 W Bluemound Road (BRC #1116-004) had been withdrawn by the objector in writing via email. Therefore no action is required.
- (5) Clerk Michaels noted for the record that the objection filed by Cole MT Brookfield WI LLC at 645 Main Street (BRC #1116-005) had been withdrawn by the objector in writing via email. Therefore no action is required.
- (6) Clerk Michaels introduced the following property owner record for an objection filed (06142021Track 2: 12:34 – 16:10):

Record Description	Detail	Record Description	Detail
Parcel No.	BRC 1116-995-003	Land Value	\$ 6,830,200
Owner Name:	JC Penney Brkfld Sq #1195-7	Improvements:	\$ 6,659,800
Property Address:	95 N Moorland Road	2021 Assessment:	\$ 13,490,000
Documents Filed:	Notice of Intent, Objection to Assessment Form, Agent Authorization (Vorys, Sater, Seymour and Pease LLP, Lindsay Doss Spillman), Rec'd by mail 6/10/2021 @ 10:20 am	Objector's Opinion of Value:	\$ 10,250,000

Attorney Aquavia speaking on behalf of the City Assessor requested the Board waive this objection into circuit court pursuant to Section 70.47 (8)m., of the Wisconsin Statutes.

Chairman Schneider questioned the reason for the waiver. Attorney Aquavia noted the objection forms and documents were all correctly completed. However, the Assessor has had conversation with their representatives since the filing of the objection forms and he has not gotten any feedback or follow up information nor any documents from them with regard to all that he has asked for. Therefore we feel if they wish to proceed further they should probably take it up in circuit court.

Attorney Merten directed the Board to the Policy and Rules they adopted last year to review Rule #12 as follows:

The Board may consider any or all of the following in determining whether to grant a request to waive a Board hearing:

- (1) A request by the Assessor to deny the hearing waiver because the objector or objector's representative has not been in contact or provided information to the Assessor in support of their opinion of valuation,
- (2) The benefits or detriments of having a Board of Review record for a court review,
- (3) The avoidance of lengthy and burdensome appeals,
- (4) The inability to cross examine the person otherwise providing testimony to the Board,
- (5) Any other circumstances that the Board deems pertinent to deciding whether to waive the hearing.
- (6) Failure to comply with a subpoena.

Motion by Michael Post, second by Alderman Mellone to grant the Assessor's request to WAIVE the objection for property owned by JC Penney Brookfield Square #1195-7 located at 95 N Moorland Road directly to Circuit Court and to direct the Clerk to notify the owner/agent of the granting of a waiver. Motion carried unanimously.

(7) Clerk Michaels introduced the following property owner record for an objection filed:
(06142021Track 2: 16:12 – 21:59):

Record Description	Detail	Record Description	Detail
Parcel No.	BRC 1024-997-010	Land Value	\$ 548,000
Owner Name:	Richard Rouhoff	Improvements:	\$ 4,186,200
Property Address:	17500 W Capitol Drive	2021 Assessment:	\$ 4,734,200
Documents Filed:	Notice of Intent, Objection to Assessment Form, Agent Authorization (Property Valuation Services), Rec'd by mail 6/8/2021 @ 8:44 am	Objector's Opinion of Value:	\$ 3,500,000

Attorney Aquavia speaking on behalf of the City Assessor, asked that the Board waive this matter to circuit court pursuant to Section 70.47 (8)m., of Wisconsin Statutes. The reasons in part for this request is that the form has not been completed in its entirety as required by Board Rule 7D, adopted in 2020 and as noted on top of the Department of Revenue form PA-115 which indicates all sections must be completed. The sections are not fully completed and furthermore, based on information that the Assessor has from prior conversations with the property owner and tax representative, the information in Section 4 does not appear to be accurate. It is our position, based on our knowledge and the gaps in the form they've provided, that they are not really ready to properly present an objection to this Board. Therefore it seems appropriate to us that they should take the matter up with the circuit court giving them time to get their ducks in a row and make sure they have all of the information they need to pursue and persecute their objection.

Attorney Merten advised the Board that she didn't believe they could waive the matter to circuit court if they haven't first filed a proper objection. She believe it was a prerequisite and noted the following missing information on the objection form filing:

- No legal or parcel number
- No basis for their opinion
- Unanswered letter c in Section 4
- Unanswered letter d in Section 4
- The property owner name on the objection form is Richard Rouhoff, however on the notice of intent to file the owner name is Fresenius Medical Care. The Letter of Authorization was signed by a representative of Fresenius Medical Care, not Richard Rouhoff, the owner listed on the objection form.

Attorney Merten did not believe they had met the burden of filing a correct objection to their property assessment and therefore the matter should not be waived to circuit court but denied a hearing instead.

Attorney Aquavia noted she was aware of the agent question, however she did not bring it up as often times the tenant is responsible for the property taxes under their lease. While they didn't supply that information to us, I believe the Assessor is of that understanding.

Attorney Merten advised the Board that the "Board" may, at its own discretion, waive a hearing of an objection under subsection 8, but there is a prerequisite to have filed a valid objection before you can actually waive it to court. Chairman Schneider asked the Board's counsel what their options were. Attorney Merten noted they could make a motion to not accept the objection and deny a hearing altogether or waive the objection to circuit court but if you waive it, you would be violating your own adopted rules for accepting an improperly filed objection. Chairman Schneider questioned whether they were better off denying a hearing versus waiving it to circuit court. Attorney Merten replied that based on the past actions of the Board, it is more consistent to deny the hearing. Chairman Schneider asked if the Assessor's Office had any comment. Attorney Aquavia noted they would have no objection to a hearing denial.

Motion by Randall Freeman, second by David Schneider to not accept the objection and DENY a hearing for property owned by Richard Rouhoff located at 17500 W Capitol Drive for insufficient filing and to direct the Clerk to notify the owner/agent of the hearing denial. Motion carried unanimously

(8) Clerk Michaels introduced the following property owner record for an objection filed:
(06142021Track 2: 22:00 – 27:26):

Record Description	Detail	Record Description	Detail
Parcel No.	BRC 1108-136-004	Land Value	\$ 5,293,500
Owner Name:	Target Corporation	Improvements:	\$ 9,517,800
Property Address:	12725 W Bluemound Road	2021 Assessment:	\$ 14,811,300
Documents Filed:	Notice of Intent, Rec'd by mail 6/7/2021 @ 9:16 am, Objection to Assessment Form and Request for Waiver to Circuit Court, Rec'd by email 6/11/2021 @ 4:07pm. Agent authorization form rec'd via email 6/14/2021 @ 12:25 pm.	Objector's Opinion of Value:	\$ 10,100,000

Attorney Aquavia, speaking on behalf of the Assessor, asked that the Board not accept the objection filing and not grant their request to waive the matter to circuit court for the following reasons:

- The person filing the objection and request for waiver does not have the authority to do so. While the City did receive an agent authorization earlier this afternoon, it specifically, only authorizes Attorney Millis to represent Target Corporation for the 2019 tax year. Obviously we are in 2021 year, therefore the authorization form submitted does not authorize Attorney Millis to represent Target in this proceeding before the Board and therefore we ask that you reject the filing and not waive it or do any of the things they've requested.

Tom Koch noted on the form it indicates "2019 until revoked in writing" and asked for clarification from the Board's attorney as to whether they can provide an indefinite authorization or whether it must be specific to a certain tax year? Attorney Merten indicated they could provide an indefinite authorization in writing however the form specifically says

“enter tax years of authorization” and they’ve indicated it is specifically for the tax year of 2019 on the form. Attorney Merten explained they could provide something in the future where it doesn’t specify a tax year and notes an indefinite period of time or all future tax years. Attorney Aquavia added that because sometimes these cases can progress to circuit court, they often take longer, possible 2 or 3 years longer if you follow the appeals process. She explained that the way it is written means they are only authorizing the 2019 tax assessment year filing for however many years it takes to complete the 2019 objection case. She also noted this is the exact same form filed last year and upon the objection of the Assessor, the Board did also reject the filing last year.

Motion by Mellone, second by Michael Post to not accept the objection and DENY a hearing for Target Corporation located at 12725 W Bluemound Road for the reason of insufficient filing and to direct the Clerk to notify the owner/agent of the hearing denial. Motion carried unanimously.

(9) Clerk Michaels noted she had received a written request to WITHDRAW the objection filed for KMN Enterprises Inc, 3130 Intertech Drive, BRC #1035-013-004 therefore no action is needed.

(10) Clerk Michaels introduced the following property owner record for an intent to file an objection she received. She noted for the record that the objector had notified the City Assessor verbally that they were not going to submit the objection forms, however pursuant to the Board’s adopted rules, any withdrawal would need to be in writing and because I did not receive anything in writing, I am presenting the intent notice that was filed for the Board’s disposition.

Record Description	Detail	Record Description	Detail
Parcel No.	BRC 1119-990-006	Land Value	\$ 4,138,000
Owner Name:	Bluemound Road Investments LLC	Improvements:	\$ 6,274,700
Property Address:	18155 W Bluemound Road	2021 Assessment:	\$ 10,412,700
Documents Filed:	Notice of Intent, Rec'd by email 6/9/2021 @ 12:39 pm.	Objector's Opinion of Value:	Unknown

Attorney Merten advised the Board to delay a decision on this matter until the end of the two hours to allow the objector the full two hours should they decide to file the objection form. She noted if no objection is received, the Board could then deny a hearing for insufficient filing.

Chairman Schneider noted they have about 45 minutes to wait and recessed the meeting to reconvene and continue the agenda at 2:55 pm. The meeting reconvened and Attorney Merten advised the Board not to act on the matter until 3:00 pm.

(06142021Track 3: 4:18 – 6:07):

Chairman Schneider noted it was 3:00 pm., and questioned whether any additional filings had been received. Clerk Michaels checked her email and with her office staff and then noted for the record she had no additional emails or filings.

Motion by Michael Post, second by David Schneider to not accept an objection and DENY a hearing for the property owned by Bluemound Road Investments LLC (Doubletree Brookfield), located at 18155 W Bluemound Road for insufficient filing and to direct the Clerk to notify the owner/agent of the hearing denial. Motion carried unanimously.

11. Adjourn to Hearing date(s) of: Thursday, June 17, 2021 and/or Friday, June 18, 2021 if necessary or if none, adjourn sine die.

Chairman Schneider noted there were no cases scheduled for hearings and directed the Clerk to cancel the June 17th and June 18th meeting dates that had been reserved for the purpose of hearings. He asked for a motion to adjourn for the year.

***Motion by Michael Post, second by Alderman Mellone to adjourn the meeting sine die.
Meeting adjourned at 3:02 pm.***

Respectfully Submitted:



Kelly Michaels, MMC, WCPC
Brookfield City Clerk