1. May 18, 2020 Executive Committee Meeting Agenda (PDF)

   Documents:

   MAY 18, 2020 EXECUTIVE COMMITTEE MEETING AGENDA.PDF

2. May 18, 2020 Executive Committee Meeting Packet (PDF)

   Documents:

   MAY 18, 2020 EXECUTIVE COMMITTEE MEETING PACKET.PDF
County Board Executive Committee
MEETING NOTICE
Monday, May 18, 2020
10:00 AM
County Board Room 114
Walworth County Government Center
100 W. Walworth St., Elkhorn, Wisconsin

Dave Weber, Chair     Dan Kilkenny, Vice-Chair
Supervisor Brian Holt  Supervisor Susan Pruessing  Supervisor Nancy Russell

NOTICE: DUE TO THE CONTINUING PUBLIC HEALTH EMERGENCY,
THIS MEETING IS PLANNED TO PROVIDE FOR REMOTE OR OFF-SITE ATTENDANCE
BY COMMITTEE MEMBERS.

The Walworth County Government Center remains open, but in-person attendance will be severely
limited due to State imposed restrictions on group meeting sizes. ALL INDIVIDUALS ARE
STRONGLY ENCOURAGED TO WATCH THE MEETING STREAMING LIVE AT
https://mediasite.co.walworth.wi.us/Mediasite/Play/eb68e111b37a4d029de7e4068a2b510d1d.

Individuals wanting to provide a Public Comment can do so remotely by telephone, but must contact
Nicolette Hill at NHill@co.walworth.wi.us or at 262-741-4357 on the day of the meeting and at least 15
minutes prior to the start of the meeting to obtain instructions.

A quorum of the Agriculture and Extension Education, Land Conservation and Park Committees will be in attendance. It is
possible that a quorum of the county board or any of its other committees could be in attendance at this meeting.

Agenda enclosures are available upon request from the County Administrator’s Office or on the County’s web page
(www.co.walworth.wi.us). The agenda packet, including supporting documents, may be large, depending upon the number of
enclosures. Downloading it will require ample computer memory and may take significant time.

A G E N D A

Note: all agenda items are subject to action.

1. Call to order
2. Roll call of committee members
3. Agenda withdrawals, if any
4. Agenda approval
5. Approval of Minutes
   a) April 27, 2020 Executive Committee Meeting (encl. pgs. 3-9)

6. Public Comment Period

7. Appointments. Recommendations regarding County Administrator’s nominations:
   a) Southeastern Wisconsin Regional Planning Commission – appointment of Dave Weber
      (encl. pgs. 10-11)
8. New business
   a) Ordinance Confirming Special Authority for 2020 to Enable Continued Response to and Management of Operations During the COVID-19 Pandemic by Extending Certain Authorization as Approved within the Resolution for a Declaration of Emergency as Approved March 19, 2020 (encl. pgs. 12-17)
   b) Discussion regarding essential employees and essential operations
   c) Wisconsin Counties Association (WCA) consideration of Walworth County advisory resolutions at WCA annual business meeting (encl. pgs. 18-40)

9. Reports/announcements by Chairperson

10. Set/confirm next meeting date and time – Monday, June 15, 2020 at 10:00 a.m.

11. Claims and litigation. The committee may discuss the following topic(s) in open session. The committee may convene in closed session pursuant to the exemption contained in Section 19.85(1)(g) of the Wisconsin Statutes, “conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved,” relative to the items listed below:
   a) Judith Demeuse and the Estate of James Demeuse, Plaintiffs, vs. Walworth County, Corrections Officer Peggy Horsthemke, Corrections Officer Jarrett McCardle, and Corrections Officer Doug Welch, each in his or her individual capacity, Defendants (encl. pgs. 41-57)

The committee will reconvene in open session and may discuss and/or take action on the above-referenced agenda item(s).

12. Adjournment

Submitted by: Dave Weber, Committee Chairperson
Mark W. Luberda, County Administrator

Posted: May 14, 2020
Memorandum

To: Walworth County Executive Committee

From: Mark W. Luberda, County Administrator

Date: May 14, 2020

RE: May 18, 2020 Executive Committee Meeting

Appointments

Southeastern Wisconsin Regional Planning Commission (SEWRPC). I am forwarding the nomination of Dave Weber to replace County Board Chair Nancy Russell as the county representative on SEWRPC. Chair Russell recently resigned from her position as county representative on SEWRPC, and Dave Weber is willing to serve in the position.

New Business

Ordinance Confirming Special Authority for 2020 to Enable Continued Response to and Management of Operations During the COVID-19 Pandemic by Extending Certain Authorization as Approved within the Resolution for a Declaration of Emergency as Approved March 19, 2020. The purpose of this ordinance is to establish a temporary ordinance for 2020, except for limited exceptions where additional time is specifically noted, that carries forward through 2020 important operational provisions that were established in by the Declaration of Emergency as approved March 19, 2020. This ordinance affects County operations and does not affect private sector operations.

The Emergency Declaration expires June 17, 2020, while the COVID-19 pandemic remains very much active. As such the Ordinance carries forward the authority for remote participation in meetings, enhanced facilities management, related budget amendments and grant acceptance, and continued, flexible administration of Human Resources policies to provide greater protection to employees, with the benefit of protecting and supporting our provision of governmental services. This provides a response for 2020 to the COVID-19 pandemic anticipating and following expiration of the Declaration of Emergency pertaining to the pandemic. It will provide additional time to evaluate and respond to the ongoing pandemic.

Discussion regarding essential employees and essential operations. The County Administrator will provide an update on and lead a discussion on essential employees and essential operations.

Wisconsin Counties Association (WCA) consideration of Walworth County advisory resolutions at WCA annual business meeting. Every year WCA asks its members for input in preparing its platform. That platform is discussed throughout the summer then adopted at the annual meeting. Our practice has been to review all of the advisory resolutions that we have passed during the course of the year and identify ones that are appropriate to include in the WCA platform. To that end, Nicole has...
gone over the past year’s resolutions and they are included in your packet for your consideration.

**Claims and litigation.** Your agenda includes two (2) claim matters for discussion in closed session.

Please call with any questions you may have.

MWL/nh
Chair David Weber called the meeting to order at 10:00 a.m.

Roll call confirmed all members were present either in person or remotely: Chair David Weber, Supervisors Brian Holt, Dan Kilkenny, Susan Pruessing and Nancy Russell. A quorum was declared.

Others in Attendance
County staff: County Administrator Mark W. Luberda; Corporation Counsel/Director of Land Use and Resource Management (LURM) Michael Cotter; and County Clerk Kimberly Bushey.

On motion by Supervisor Pruessing, second by Supervisor Russell, the agenda was approved with no withdrawals.

On motion by Supervisor Russell, second by Supervisor Pruessing, the minutes of the March 16, 2020 Executive Committee Meeting were approved.

Public Comment – There was none.

Special Order of Business
• Nominations/Elections of Executive Committee Vice Chair
Chair Weber announced that nominations for the Executive Committee Vice Chairperson were open. On motion by Supervisor Pruessing, second by Supervisor Russell, Supervisor Dan Kilkenny was nominated for Executive Committee Vice Chairperson. Chair Weber asked if there were any other nominations. Hearing none, Supervisor Russell moved to approve Dan Kilkenny as the Executive Committee Vice Chairperson, second by Supervisor Pruessing. Motion carried 5-0.

• Role of Executive Committee – Sec. 2-131, Walworth County Code of Ordinances
County Administrator Mark W. Luberda spoke briefly regarding the role of the Executive Committee as indicated in Section 2-131 of the Walworth County Code of Ordinances.

Consent Items – expense/mileage reimbursement claims submitted by:
• Anna Seaver, citizen member on Board of Adjustment, in the amount of $17.83
Supervisor Russell offered a motion, second by Supervisor Pruessing, to approve the expense/mileage reimbursement claim submitted by Anna Seaver. Motion carried 5-0.

Appointments. Recommendations regarding County Administrator’s nominations:
• Elkhorn Matheson Memorial Library Board – appointment of Debbie Michetti
Supervisor Pruessing offered a motion, second by Supervisor Holt, to approve the appointment of Debbie Michetti to the Elkhorn Matheson Memorial Library Board. Motion carried 5-0.

• Wisconsin River Rail Transit Commission – appointment of Albert Stanek
Administrator Luberda stated if the Wisconsin River Rail Transit Commission (WRRTC) appointment were to be approved, it should be contingent upon approval of 11a – Proposed ordinance amending Section 2-167 Relating to Membership on the WRRTC. Supervisor Russell offered a motion, second by Supervisor Pruessing, to approve the appointment of Albert Stanek to the WRRTC contingent upon approval of the proposed ordinance amending Section 2-167 of the Walworth County Code of Ordinances. Motion carried 5-0.
Unfinished Business
- Correspondence from County Board Vice-Chair Jerry Grant regarding County Board election years
  Chair Weber briefly summarized correspondence received from Jerry Grant regarding County Board election years. Administrator Luberda explained the course of action that would need to be taken, should the Executive Committee and County Board of Supervisors choose to enact a change. Discussion followed. Supervisor Russell suggested postponing any action on Supervisor Grant’s correspondence and to forward it to the full County Board, which will allow further discussion by all Supervisors. The Executive Committee requested County Clerk Kimberly Bushey and Administrative Luberda to provide a packet containing relevant data as to how the process would be enacted, such as an election timeline with deadline requirements; dates when the salaries are to be set for the County Board term; a history of contested elections in the past ten years; and potential issues prior to further discussion by the Executive Committee and/or County Board Supervisors. Supervisor Holt offered a motion, second by Supervisor Russell, to postpone any action on Supervisor Grant’s correspondence and for it to be placed on the July Executive Committee agenda along with a packet containing relevant data relating to the matter. Motion carried 5-0.

- St. Croix and Trempealeau County Resolutions regarding Referendum on Creating Non-Partisan Procedure for Redistricting Plans
  Administrator Luberda gave a brief overview of the St. Croix and Trempealeau County Resolutions and stated the content matter included in the two resolutions has previously been addressed by the Walworth County Board of Supervisors through Res. No. 18-06/17 and Res. No. 34-07/19, which basically contained the same position and intent without an expiration date. Vice Chair Kilkenny offered a motion, second by Supervisor Pruessing, to place the resolutions on file. Motion carried 5-0. Holt stated, as a new Supervisor, he supports the original resolutions. Supervisor Russell stated there will be another opportunity to vote on resolutions, such as these, at the 2020 Wisconsin Counties Association (WCA) Annual Conference.

- Proposed Ordinance regarding Naming Public Real Property
  Administrator Luberda referred to his Memorandum on Page 2 of the packet and briefly explained the purpose for the proposed ordinance creating sections 16-4, 42-10, and 54-3 of the Walworth County Code of Ordinances relating to the naming of public real property.

Supervisor Russell offered a motion to approve the proposed ordinance. Motion failed for lack of a second. Vice Chair Kilkenny expressed concern and spoke briefly regarding the controversies involved with naming public real property. He stated postponing the proposed ordinance would provide an opportunity for all County Board Supervisors to review the ordinance and offer comment. Vice Chair Kilkenny offered a motion to postpone the proposed ordinance at the call of the Executive Committee Chairperson. Motion failed for lack of a second. Kilkenny suggested discussing the proposed ordinance at the July Executive Committee meeting, which will coincide with the staggered terms for Supervisors. Vice Chair Kilkenny offered a motion to postpone the proposed ordinance at the call of the Executive Committee Chairperson in July, second by Supervisor Russell. Discussion then focused on the need for an ordinance to exist and the desire to have other Supervisors attend a future Executive Committee meeting in order for them to provide their input. Kilkenny requested that further information be provided in the form of a memorandum or packet for the Supervisors to review prior to the meeting. Chair Weber and Administrator Luberda requested clarification of Kilkenny’s intent, which is to place the proposed ordinance on the July Executive Committee agenda. Kilkenny confirmed this is his intent. Motion carried 5-0. Supervisor Russell requested the proposed ordinance be included in the Committee Minutes Packet in full.
New Business

- Ordinance Amending Section 2-167 of the Walworth County Code of Ordinances Relating to Membership on the Wisconsin River Rail Transit Commission

Administrator Luberda reminded the Committee they previously approved the appointment of Albert Stanek to the Wisconsin River Rail Transit Committee (WRRTC) contingent upon approval of the proposed ordinance amending Section 2-167 of the Walworth County Code of Ordinances Relating to Membership on the WRRTC. Luberda explained the purpose for the proposed ordinance and stated Mr. Stanek was a former employee who set up the Shared-Ride Transit Service for Walworth County. **Supervisor Holt offered a motion, second by Supervisor Russell, to approve the proposed ordinance amending Section 2-167 of the Walworth County Code of Ordinances. Motion carried 5-0.**

- Resolution Proclaiming May 17-23, 2020 as Fair Housing Week in Walworth County

Administrator Luberda gave a brief overview of the proposed resolution and stated the resolution indicates Walworth County’s continued support for Fair Housing. **Supervisor Pruessing offered a motion, second by Supervisor Russell, to approve the proposed resolution. Motion carried 5-0.**

Reports/announcements by Chairperson – There was none.

Confirmation of next meeting date and time: The next meeting was confirmed for Monday, May 18, 2020 at 10:00 a.m.

Claims and Litigation

The Committee convened in closed session at approximately 10:42 a.m. on motion and second by Supervisor Pruessing and Supervisor Russell pursuant to the exemption contained in Section 19.85(1)(g) of the Wisconsin Statutes, “confering with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved,” relative to the items listed below. A roll call vote was conducted and all members present voted “aye.” County Administrator Mark W. Luberda and Corporation Counsel/Director of Land Use and Resource Management Michael Cotter remained in closed session.

a) Notice of Motion and Motion for Confirmation of Sheriff’s Sale – Steven Phelps and Leslie Phelps, Plaintiffs vs. David Hughes, Rebecca Hughes, Walworth County, Walworth County Clerk of Circuit Court, Lake Como Beach Property Owners Association, Defendants

b) U.S. Bankruptcy – Notice and Request to Modify Confirmed Chapter 13 Plan – William Thomas LaPlant and Lana Sue LaPlant

The committee reconvened in open session at 10:49 a.m. on motion and second by Vice Chair Kilkenny and Supervisor Holt.

**Vice Chair Kilkenny offered a motion, second by Supervisor Pruessing, to proceed as discussed in closed session on items a) and b), above herein. Motion carried 5-0.**

Adjournment

**On motion and second by Vice-Chair Kilkenny and Supervisor Russell, Chair Weber adjourned the meeting at 10:58 a.m.**

Submitted by Patricia Sommers, Administrative Assistant. Meeting minutes are not considered final until approved by the committee at the next regularly scheduled meeting.
ORDINANCE NO. ** – 05/20

CREATING SECTIONS 16-4, 42-10, AND 54-3 OF THE WALWORTH COUNTY CODE OF ORDINANCES RELATING TO THE NAMING OF PUBLIC REAL PROPERTY

THE WALWORTH COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

PART I: That Section 16-4 of the Walworth County Code of Ordinances is hereby created to read as follows:

“Sec. 16-4. Naming procedure, purpose, and policy.

(a) Purpose. The purpose of this section is to establish consistent standards, procedures, and guidelines for the naming of public highways, public buildings, parks, open spaces, and lands owned by or under the jurisdiction of Walworth County, including related facilities and interior roadways (those not part of the public right-of-way system), whether considered in whole or in part, which hereinafter for the purposes of this Section shall be expressed as “public real property.” This Section also applies to acceptance of donations which are contingent upon the naming of any such public real property.

(b) Policy. The naming of public real property shall be the responsibility of the Walworth County Board of Supervisors upon recommendation by the Executive Committee and Finance Committee, except the Park Committee and Finance Committee shall provide recommendation in the case of public real property which is part of the County’s parks system, and the Public Works Committee and Finance Committee shall provide recommendation in the case of public highways and interior roadways.

(c) Naming process. The following process shall be followed in the naming of public real property.

(1) The County Administrator will notify the Executive Committee, Park Committee, or Public Works Committee, as appropriate, of any proposed naming opportunities or requests received in writing, which Committee shall conduct at least one public meeting prior to making a naming recommendation and shall allow for public input at that meeting.

(2) Prior to submission to the County Board, the Finance Committee shall consider such naming proposal and submit to the County Board a recommendation considering the financial implications of such action if it were approved.

(d) Naming criteria. The following types of names shall be deemed suitable for consideration:

(1) Names that describe the geographical location of the public real property, which includes descriptive names.

(2) Names that describe an outstanding feature of the public real property.
(3) Names that describe a commonly recognized historical event, group, organization, or individual (living or deceased), including, but not limited to, those more commonly associated with events or work at the state or national level.

(4) Name of an individual or organization that contributed significantly to the acquisition or development of the public real property to be named. This can include either a deed or substantial monetary contribution, or contribution toward acquisition and/or development of the public real property (typically not less than 50 percent of the value of the property of improvements).

(5) Name of an individual who performed outstanding accomplishments for the good of the County. The quality of the contribution should be considered, along with the length of service by the individual.

(6) Name of any individual who provided exceptional, exemplary, and/or special service in the interest of Walworth County. Typically, while serving in a public office serving Walworth County, public officials should not be considered as a candidate for naming.

(e) Temporary naming. In the case of a new project, a temporary name will be designated by the County Administrator for identification during acquisition and/or development of the public real property. Because temporary designations tend to be retained, the naming process for new public real property should be carried out as quickly as possible after its acquisition or development.

(f) Public Real Property renaming.

(1) Renaming public real property should not diminish the original justification for the name or prior contributors. Renaming will follow the same procedure as naming the public real property.

(2) Public real property named after individuals shall not be changed for a period of fifty (50) years, unless it is found that because of the individual's character or other special circumstances the continued use of their name would not be in the best interest of the County.

(3) Substantial reconstruction of or addition to public real property, generally exceeding at least half of the value or size of the public real property, shall be a valid reason for consideration of renaming and shall be allowed to supersede the time period set forth in (2) above.

(g) Additional Criteria. The above requirements shall be subject to any requirement of State statutes and administrative procedures, including those related to public roadways and to public bodies of water, which bodies of water shall be named or renamed in accordance requirements of the State of Wisconsin Department of Natural Resources’ Wisconsin Geographic Names Council.”

PART II: That Section 42-10 of the Walworth County Code of Ordinances is hereby deleted in its entirety and recreated to read as follows:
“Sec. 42-10. - Naming procedure, purpose, and policy.

Parks, park lands, and related park facilities, or any portion thereof, shall be named or renamed in accordance with Section 16-4 of this code.”

PART III: That Section 54-3 of the Walworth County Code of Ordinances is hereby created to read as follows:

“Sec. 54-3. Naming procedure, purpose, and policy.

Public highways under the jurisdiction of Walworth County and interior roadways (those not part of the public right-of-way system) owned by Walworth County, shall be named or renamed in accordance with Section 16-4 of this code, and County Trunk Highway names shall follow the one-, two-, or three-letters in length designation as prescribed by the State of Wisconsin.”

PART IV: That this ordinance shall become effective upon passage and publication.

PASSED and ADOPTED by the Walworth County Board of Supervisors this 12th day of May 2020.

________________________________  ___________________________________
Nancy Russell      Kimberly S. Bushey
County Board Chair      Attest:  County Clerk

County Board Meeting Date: May 12, 2020

Action Required: Majority Vote __ X ___ Two-thirds Vote ______ Other ______

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

___________________________________   __________________________________
Michael P. Cotter   Date   Jessica Conley   Date
Corporation Counsel     Finance Director

Mark W. Luberda   Date
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.
I. **Title:** Creating Sections 16-4, 42-10, and 54-3 of the Walworth County Code of Ordinances Relating to the Naming of Public Real Property

II. **Purpose and Policy Impact Statement:** The purpose of this ordinance amendment is to create a procedure and policy for the naming of public real property.

III. **Is this a budgeted item and what is its fiscal impact:** Passage of this ordinance will not impact the County budget.

IV. **Referred to the following standing committee(s) for consideration and date of referral:**

   Committee: Executive Committee       Date: April 27, 2020

   Vote:

   County Board Meeting Date: May 12, 2020

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached ordinance.

_____________________________   ________________________________
Michael P. Cotter       Date       Jessica Conley       Date
Corporation Counsel     Finance Director

Mark W. Luberda       Date
County Administrator
Nomination for Committee/Board/Commission Appointment

Committee: ________________________ Southeastern Wisconsin Regional Planning Commission (SEWRPC)  
Nominee: ________________________ Dave Weber  
Residence: ________________________ Town of Delavan  
Submitted by: _____________________ Mark W. Luberda, County Administrator  
Authority: ________________________ Section 59.18, Wisconsin Statutes  
Who will the nominee replace? ______ Nancy Russell  

When did/does the incumbent’s current term expire? ___________ September 30, 2024  
Was this vacancy advertised? _____________  

Comment _____________ Upon confirmation, Mr. Weber would fill the unexpired term of Nancy Russell, which will expire on September 30, 2024.  

For incumbents, committee attendance, if known:  

__________
WALWORTH COUNTY
NOTICE OF INTEREST TO SERVE AS A CITIZEN REPRESENTATIVE

Name: David A. Weber

Mailing Address: [Blank]

I reside in: [ ] the Town of Delavan, WI
[ ] the Village of
[ ] the City of

Please consider me for appointment to: SEWRPC Committee

I am interested in serving as a citizen representative because: I have served 16 yrs on the County Board and appreciate the work that the Regional Planning Commission does for our area.

Special skills, experience or qualifications I possess related to this appointment are:
Local Business Owner for 51 yrs
And Elected Representative for 45 yrs

Check one of the following:
[ ] I am a resident of Walworth County and reside in the appropriate jurisdiction to serve on the board or commission for which I am applying.
[ ] I am not a resident of Walworth County.

I certify that the information I have provided is truthful to the best of my knowledge.

RECEIVED
MAY 06 2020

Signature of Applicant
Date

Feel free to attach any additional documentation to this form.
ORDINANCE NO. ** – 06/20

CONFIRMING SPECIAL AUTHORITY FOR 2020 TO ENABLE CONTINUED RESPONSE TO AND MANAGEMENT OF OPERATIONS DURING THE COVID-19 PANDEMIC BY EXTENDING CERTAIN AUTHORIZATION AS APPROVED WITHIN THE RESOLUTION FOR A DECLARATION OF EMERGENCY AS APPROVED MARCH 19, 2020

WHEREAS, the World Health Organization (WHO) designated the 2019 novel Coronavirus (“COVID-19”); outbreak as a Public Health Emergency of International Concern; the United States Health and Human Services Secretary Alex M. Azar II declared a Public Health Emergency for the entire United States to aid the nation’s health care community in responding to COVID-19; and the Governor of Wisconsin previously declared a State of Emergency; and,

WHEREAS, the Walworth County Board of Supervisors previously issued Resolution No. 102-03/20, Declaring a State of Emergency in Walworth County as a Result of the COVID-19 Virus, which declaration is scheduled to expire at the end of business on June 17, 2020; and,

WHEREAS, COVID-19 remains an active, contagious, and, at times, fatal respiratory disease that the State and Federal resources have been unable to accurately predict, project, or curtail, and it, therefore, demands continued diligence and responsiveness to help provide for the protection of the employees and residents of Walworth County and to help protect and support our provision of governmental services; and,

WHEREAS, certain actions initiated under the Declaration of Emergency, which authority to continue will expire with the expiration of the declaration, warrant continuation while the County continues to adapt to and manage within the existing pandemic.

THE WALWORTH COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

PART I: That Section 2-69 of the Walworth County Code of Ordinances is hereby created to read as follows:

“Sec. 2-69. Remote participation in meetings by electronic means.

(a) The purpose of this section is to establish a policy for 2020 that allows for remote participation in meetings as a temporary response to the COVID-19 pandemic anticipating and following expiration of the Declaration of Emergency pertaining to the pandemic.

(b) During 2020, the Walworth County Board of Supervisors, and any committee, board, agency, or other similar such group that is charged with advising or reporting to the County Board of Supervisors, may provide for remote participation by members in any meeting by electronic means provided the meeting is properly noticed and conducted in accordance with Wisconsin statutes, unless otherwise specifically noted on the published agenda.”
PART II: That Section 15-11 of the Walworth County Code of Ordinances is hereby created to read as follows:

“Sec. 15-11. Special authority for 2020 to enable continued response to and management of Human Resources operations during the COVID-19 pandemic by extending certain authorizations as initially approved within the resolution for a declaration of emergency as approved March 19, 2020.

(a) The purpose of this section is to establish a temporary ordinance for 2020, except where additional time is specifically noted, that allows for continued, flexible administration of Human Resources policies to provide greater protection to employees, with the benefit of protecting and supporting our provision of governmental services, while providing a temporary response to the COVID-19 pandemic anticipating and following expiration of the Declaration of Emergency pertaining to the pandemic.

(b) Notwithstanding the provisions otherwise set forth in this Chapter and with the intent to coordinate with the existing statutory authority of the County Administrator, the following authorizations are adopted for 2020.

1. Departments may employ modified work schedules to enhance social distancing as authorized by the County Administrator in a manner and form as he shall determine is appropriate.

2. Departments may employ remote working / telecommuting to enhance social distancing as authorized by the County Administrator in a manner and form as he shall determine is appropriate.

3. Appropriate “Return to Work” and workplace guidelines will be administered by the County Administrator under his authority and in consultation with Public Health.

4. The County Administrator may reassign essential and non-essential staff for the purpose of addressing pandemic-related circumstances without immediate regard to the budgetary assignment of the position but shall periodically report such instances to the Human Resources Committee and, where applicable, subject to the concurrence of the statutorily elected officer. Inherent in this authorization is the understanding that reassignment may incorporate additional hours, overtime, or the continuation of employment term as in the case of Teachers Aides who have been reassigned.

5. STO accrual caps shall remain increased by 80 hours from the STO accrual caps identified elsewhere in this Chapter and an individual may continue to accrue up to said amount through any pay period paid out on or before August 7, 2020; however, after that date, once an employee falls below the STO accrual caps identified elsewhere in this Chapter, the employee shall not be allowed to again exceed the cap and all amounts accrued above the STO accrual caps identified elsewhere in this Chapter shall be used prior to June 4, 2021 or they shall be forfeited. Increased vacation accrual caps for the Walworth County Deputy Sheriffs Association (Article 10.01 of the collective bargaining agreement) shall be administered similarly, as determined solely by the County Administrator.

6. The 60-day waiting period for PTO for new hires hired through December 31, 2020 shall be waived.
(7) The County Administrator may amend or suspend leave benefit policies as set forth in the Walworth County Code of Ordinances to address or implement the authority provided for herein or allowed by any state or federal options and mandates related to COVID-19, such as but not limited to the Families First Coronavirus Response Act and the State of Wisconsin Act 185 and COVID-19-related Executive Orders. As examples, allowing for negative STO balances (or vacation as in the union example described above) resolved prior to June 4, 2021, and a continuation or restatement of Administrative Procedure 4-493, “The Families First Coronavirus response Act Emergency for 2020, Including the Emergency Family and Medical Leave Expansion Act and Emergency Paid Sick Leave Act: Emergency Policy,” are reasonable and appropriate applications of this authority.”

PART III: That Section 30-35 (a) (5) of the Walworth County Code of Ordinances is hereby created to read as follows:

“(5) In order to establish an ordinance for 2020 that allows for certain timely budget amendments as a temporary response to the COVID-19 pandemic anticipating and following expiration of the Declaration of Emergency pertaining to the pandemic and notwithstanding the remaining portions of this subsection, the $312,500 amendment authorized in the Emergency Declaration remains authorized; the County Administrator and Finance Director may approve budget amendments up to $250,000 to incorporate any state or federal grants provided to address COVID-19 in any manner; and the County Board Chair or the Finance Committee may approve an amendment for a second transfer of General fund available balance, for an additional $312,500, which action shall be subsequently reported to the County Board.”

PART IV: That Section 15-707 (b) of the Walworth County Code of Ordinances is hereby amended as follows (additions are underlined; deletions are shown in strike-through text):

“(b) The County Administrator may authorize and publicly announce that certain County operations and facilities, or parts thereof, are temporarily closed or subject to restricted access due to severe weather or other emergency conditions, which emergency conditions may include, but are not limited to, isolated or ongoing public health circumstances.”

PART V: That this ordinance shall become effective upon passage and publication.

PASSED and ADOPTED by the Walworth County Board of Supervisors this 9th day of June 2020.

________________________________  __________________________________
Nancy Russell      Kimberly S. Bushey
County Board Chair     Attest:  County Clerk

County Board Meeting Date: June 9, 2020

Action Required:     Majority Vote _____     Two-thirds Vote X     Other ______
Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

__________________________________________________________________________   _____________________________________________________________________
Michael P. Cotter               Date               Jessica Conley               Date
Corporation Counsel             Finance Director

__________________________________________________________________________
Mark W. Luberda                 Date
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.
I. **Title:** Confirming Special Authority for 2020 to Enable Continued Response to and Management of Operations During the COVID-19 Pandemic by Extending Certain Authorization as Approved within the Resolution for a Declaration of Emergency as Approved March 19, 2020

II. **Purpose and Policy Impact Statement:** The purpose of this ordinance is to establish a temporary ordinance for 2020, except for limited exceptions where additional time is specifically noted, that carries forward through 2020 important operational provisions that were established in by the Declaration of Emergency as approved March 19, 2020. This ordinance affects County operations and does not affect private sector operations.

The Emergency Declaration expires June 17, 2020, while the COVID-19 pandemic remains very much active. As such the Ordinance carries forward the authority for remote participation in meetings, enhanced facilities management, related budget amendments and grant acceptance, and continued, flexible administration of Human Resources policies to provide greater protection to employees, with the benefit of protecting and supporting our provision of governmental services. This provides a response for 2020 to the COVID-19 pandemic anticipating and following expiration of the Declaration of Emergency pertaining to the pandemic. It will provide additional time to evaluate and respond to the ongoing pandemic.

III. **Is this a budgeted item and what is its fiscal impact:** The pandemic was not anticipated, but use of general fund available fund balance was authorized for non-recurring expenditures. $312,500 of the fund balance was made available by the emergency declaration, with an additional $312,500 made more readily available. A variety of state and federal funding programs to offset expenditures have been initiated, but many of them are still waiting for clarification and distribution. As such, it is very difficult to determine the net fiscal impact of this ordinance since there are still far too many unknowns.

IV. **Referred to the following standing committee(s) for consideration and date of referral:**

Committee: Executive Committee  
Date: May 18, 2020

Committee: Human Resources Committee  
Date: May 20, 2020

Committee: Finance Committee  
Date: May 21, 2020
### County Board Meeting Date: June 9, 2020

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached ordinance.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
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<tr>
<td>Michael P. Cotter</td>
<td>Corporation Counsel</td>
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<td>Jessica Conley</td>
<td>Finance Director</td>
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<tr>
<td>Mark W. Luberda</td>
<td>County Administrator</td>
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</tbody>
</table>
From: Wisconsin Counties Association <mail@wicounties.org>
Sent: Friday, April 24, 2020 4:00 PM
To: Bushey, Kimberly <kbushey@co.walworth.wi.us>
Subject: Call for Resolutions: 2020 WCA Annual Business Meeting

CALL FOR RESOLUTIONS: 2020 WCA
ANNUAL BUSINESS MEETING
The WCA Annual Conference will be held from September 20–22, 2020 in Sauk County.

Each year, counties have the opportunity to submit resolutions for consideration at the Annual Business Meeting, held in conjunction with the WCA Annual Conference. Resolutions adopted at the Annual Business Meeting become part of the WCA Platform.

The WCA Constitution requires all resolutions be submitted to the WCA executive director no later than 90 days prior to the Annual Business Meeting. Therefore, all resolutions must be submitted to the WCA office no later than 4:30 p.m. on Monday, June 22, 2020 to be considered at the 2020 Annual Business Meeting. All resolutions submitted by the deadline will be referred to the appropriate steering committee, as well as the WCA Resolutions Committee, prior to action at the Annual Business Meeting.

Please keep the following in mind when submitting resolutions for the Annual Business Meeting:

- All resolutions submitted must be adopted by your full county board (please send an official copy for verification purposes).
- Any resolution submitted must be on a matter of public policy.
- Resolutions must be submitted with a cover memo indicating that the resolutions are submitted for consideration at the Annual Business Meeting.
- Resolutions may be submitted in any one of the following ways:
  - Mailed to the WCA office: 22 E. Mifflin Street, Suite 900, Madison, WI 53703
  - Faxed to 608.663.7189
  - Emailed to Robyn Voss
- If possible, please also email a Microsoft Word or text version of the resolutions to the WCA office. This will allow for a quicker processing/turnaround time on our end, as WCA staff will not need to retype each resolution. You will still need
to send an official copy of each resolution so staff can verify action on the resolution was taken by the full county board.

- Once the WCA office receives your resolutions, a confirmation notice will be sent to the county clerk. If you do not receive a confirmation notice by June 26, 2020, please contact the WCA office to ensure your county's resolutions were received.

All resolutions received by the deadline will be considered at the WCA Annual Business Meeting on Sunday, September 20, 2020.

If you have any questions regarding the resolutions process, please do not hesitate to contact Sarah Diedrick-Kasdorf at the WCA office at 608.663.7188, by cell at 608.225.3017, or via email at Sarah_Diedrick-Kasdorf.
Resolution No. ** - 06/20
Submitting Certain Advisory Resolutions to the Wisconsin Counties Association to be Included in its Platform

Moved/Sponsored by: Executive Committee

WHEREAS, at its annual conference, the Wisconsin Counties Association (WCA) seeks input from its member counties in order to establish its platform; and,

WHEREAS, during the course of the year, the Walworth County Board of Supervisors has adopted certain advisory resolutions on various legislative topics of statewide concern; and,

WHEREAS, the Executive Committee reviewed these resolutions and other issues of statewide concern and recommends inclusion of the attached Resolutions in the Wisconsin Counties Association platform.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors hereby encourages the WCA to include the attached positions in its platform.

Nancy Russell      Kimberly S. Bushey
County Board Chair     County Clerk

County Board Meeting Date: June 9, 2020

Action Required: Majority Vote _X_ Two-thirds Vote _____ Other ______

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

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<thead>
<tr>
<th>Michael P. Cotter</th>
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</table>

If unsigned, exceptions shall be so noted by the County Administrator.
I. **Title:** Submitting Certain Advisory Resolutions to the Wisconsin Counties Association to be Included in its Platform

II. **Purpose and Policy Impact Statement:** The purpose of this resolution is to request the WCA to include certain positions in its platform.

III. **Budget and Fiscal Impact:** Passage of this resolution will have no impact on the County budget.

IV. **Referred to the following standing committees for consideration and date of referral:**

   Committee: Executive Committee  
   Meeting Date: May 18, 2020

   Vote:

   County Board Meeting Date: June 9, 2020

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached resolution.

___________________________________   __________________________________
Michael P. Cotter   Date   Jessica Conley   Date
Corporation Counsel   Finance Director

___________________________________
Mark W. Luberda   Date
County Administrator
Resolution No. 34 - 07/19
Urging the State Legislature to Create a Nonpartisan Procedure for the Preparation of Legislative and Congressional Redistricting Plans

Moved/Sponsored by: Executive Committee

WHEREAS, currently under the State Constitution, the Legislature is directed to redistrict legislative districts according to the number of inhabitants at its next session following the decennial federal census by the majority party; and at the same intervals, the Legislature also reapportions congressional districts pursuant to Federal law; and,

WHEREAS, legislative and congressional redistricting plans enacted pursuant to this procedure are used to elect members of the Legislature and members of Congress in the fall of the second year following the year of the census; and,

WHEREAS, historically, legislative and congressional plans in Wisconsin have been subject to partisan influence that put the desires of politicians ahead of the electoral prerogative of the people; and,

WHEREAS, the 2011 process to draw the maps and fight litigation contesting those maps cost taxpayers nearly $1.9 million; and,

WHEREAS, redistricting to achieve partisan gains is improper, whether it is done by Republicans or Democrats.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors insists upon the creation of a nonpartisan procedure for the preparation of legislative and congressional redistricting plans.

BE IT FURTHER RESOLVED that the process promotes more accountability, transparency, and prohibits the consideration of voting patterns, party information and incumbent’s residence information or demographic information in drawing the maps, except as necessary to ensure minority participation as required by the United States Constitution.

BE IT FURTHER RESOLVED that the County Clerk is hereby directed to forward a copy of this resolution to the Governor of the State of Wisconsin, the Wisconsin Counties Association, the Wisconsin Towns Association, the Wisconsin League of Municipalities and all State Assembly and Senators representing Walworth County.

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: July 9, 2019

Ayes: Noes: Absent:
Date July 9, 2019

Page 23 of 79
1 Action Required: Majority Vote X Two-thirds Vote Other

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

David A. Bretl 6/18/19
County Administrator/Corporation Counsel

Nicole Andersen 6/18/19
Deputy County Administrator - Finance

If unsigned, exceptions shall be so noted by the County Administrator.
Resolution No. 39-07/19
Supporting Budget Priorities to Improve Local Land and Water Resources

Moved/Sponsored by: Land Conservation Committee

WHEREAS, County Land and Water Conservation Departments Provide boots-on-the-ground technical assistance as trusted advisers to farmers and other landowners, helping them meet mutually agreed-upon and reasonable state conservation standards, while achieving other local business or land management objectives; and,

WHEREAS, County Land and Water Conservation Departments are a proven asset in getting common-sense conservation onto working lands, increasing farm profitability and protecting water quality at the same time; and,

WHEREAS, County Land and Water Conservation Departments do critical work on a variety of conservation issues such as: groundwater and drinking water protection, reducing polluted runoff from agricultural and urban areas, shoreland restoration, lake management planning, invasive species control, and much more; and,

WHEREAS, County Land and Water Conservation Departments have proven to be a cost-effective investment, as the impact of state funding is multiplied several times over through collaboration with federal and private dollars – getting conservation on the land while enhancing local economies; and,

WHEREAS, Conservation efforts help reduce runoff to our state’s waterways, reducing pollutants such as nutrients that lead to harmful algae blooms and result in reduced recreational opportunities that our state’s economy relies on; and

WHEREAS, Contaminated drinking water is a growing crisis, especially in rural Wisconsin. Just under 4 million Wisconsinites—families, businesses, farms, and schools—get their drinking water from groundwater aquifers and over 25% of the State’s residents drink water from private wells, which do not have the same protections as public (municipal) wells, nor are their sources of groundwater adequately understood; and

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors strongly urges the Wisconsin Legislature to restore conservation funding to the Statutory level set by Wisconsin State Statutes Section 92.14, increasing annual county conservation staffing and support grants from $9 million to $12.4 million and bonding cost-share grants for conservation projects from $3.5 million to $5 million; and

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors strongly urges the Wisconsin Legislature to restore $150,000 annually to support the Wisconsin Geological and Natural History Survey; and,
BE IT FURTHER RESOLVED that the Walworth County Clerk is hereby directed to forward a copy of this resolution to the Governor of the State of Wisconsin, State legislators representing Walworth County, and the Wisconsin Counties Association.

Nancy Russell
County Board Chair

Kimberly S. Rushey
County Clerk

County Board Meeting Date:

Action Required: Majority Vote X Two-thirds Vote ______ Other ______

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

David A. Bretl
County Administrator/Corporation Counsel

Nicole Andersen
Deputy County Administrator - Finance

If unsigned, exceptions shall be so noted by the County Administrator.

This Resolution/Ordinance was:
Adopted: Roll Call/U.C./Voice
Rejected/Referred/Laid Over

Ayes: Noes: Absent:

Date July 9, 2019
Resolution No. 43 - 09/19
Requesting Elimination of the 0% Levy Cap Imposed on Wisconsin Counties

Moved/Sponsored by: Executive Committee

WHEREAS, in 2012, the State of Wisconsin imposed limits on town, village, city and county property tax levies under Section 66.0602 of the Wisconsin Statutes; and,

WHEREAS, Wis. Stat. § 66.0602 limits that increase to the local property tax levy to no more than the greater of (a) 0% of last year’s actual levy or (b) a percentage equal to the percentage change in equalized value due to new construction less improvements removed; and,

WHEREAS, the percentage of net new construction in Walworth County used to calculate the increase in the operating levy allowance has significantly lagged the Consumer Price Index for All Urban Consumers (CPI-U) over this period; and,

WHEREAS, as a result, Walworth County has been forced to absorb inflationary increases in normal operating expenditures with no offsetting increase in revenues; and,

WHEREAS, unexpected increases in the expenditures for certain items, particularly unfunded mandates such as the cost of Child Protective Services, has compounded this issue; and,

WHEREAS, Walworth County has taken measures to curb spending by cutting costs and reducing program offerings.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors requests complete elimination of the current 0% tax levy cap or replacing it with a levy allowance that adequately reflects the increases in everyday costs incurred by Wisconsin counties.

BE IT FURTHER RESOLVED that the County Clerk is hereby directed to send a copy of this resolution to Governor Tony Evers, the Joint Finance Committee of the Wisconsin Legislature, state legislators representing Walworth County and the Wisconsin Counties Association.

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: September 3, 2019

Action Required: Majority Vote X Two-thirds Vote _____ Other _____

This Resolution/Ordinance was: Adopted Roll Call/U.C. Voice
Rejected/Referred/Laid Over

Ayes: Does: Absent: Date: September 3, 2019

Page 27 of 79
Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

David A. Bretl 7/19/19
County Administrator/Corporation Counsel

Jessica Conley 7/19/19
Finance Director

If unsigned, exceptions shall be so noted by the County Administrator.
Resolution No. 49 - 10/19
Urging the Legislature to Revise the Statutes for Court Fees and Costs in Probate and Juvenile Cases

Moved/Sponsored by: Executive Committee

WHEREAS, Wisconsin Statutes Chapter 814 covers court costs, fees and surcharges. Subsection 814.66 applies to the Office of the Register in Probate. Probate and Juvenile Court handles other case types for which fees are not covered in Sec. 814.66 or other statutes. The result in cases filed with the court without a filing fee; and,

WHEREAS, some fees and costs collected by the probate office are different from fees collected by the Clerk of Court for the same items. This can cause confusion. Different fees and costs for an identical items seem inappropriate; and,

WHEREAS, employees of the Clerk of Court and Register in Probate are all county employees, usually working in proximity to the court, if not in the same office using the same equipment. The employees use CCAP provided computers and printers as well as county provided copiers. There is no discernable difference in these two offices related to copying and issuing certificates; and,

WHEREAS, the Legislature should revise the statutes for consistency. Require fees and costs charged by the Clerk of Court and Register in Probate to be the same for the same item or service. Require fees for probate and juvenile court as attached; and,

WHEREAS, the Executive Committee supports revising the statutes to collect fees and costs associated with probate cases and juvenile court proceedings as outlined herein.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors hereby supports the Wisconsin Register in Probate Association in its efforts to revise Wisconsin Statutes consistent with the resolution and further urges the Legislature to revise and amend the related statutes for further consistency between the fee structure outlined in the statutes.

BE IT FURTHER RESOLVED that the Walworth County Clerk is hereby directed to forward a copy of this resolution to Governor Tony Evers, the Wisconsin Counties Association and State legislators representing Walworth County.

Nancy Russell  
County Board Chair

Kimberly S. Bushey  
County Clerk

County Board Meeting Date:

Action Required: Majority Vote X Two-thirds Vote Other

This Resolution/Ordinance was: Adopted: Roll Call/U.C./Voice  
Rejected/Referred/Laid Over

Ayes: Noses: Absent:

Date October 8, 2019
Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

David A. Bretl
County Administrator/Corporation Counsel

Jessica Conley
Finance Director

If unsigned, exceptions shall be so noted by the County Administrator.
Attachment to Resolution No. 49 - 10/19

Require filing fee upon filing foreign letters under Sec. 877.16. Either clearly state within Sec. 877.16 or add to Sec. 814.66(1). Either $15, consistent with filing a foreign judgment, or the $20 probate minimum filing fee.

Require filing fee upon transferring a foreign guardianship, clearly stated with Chapter 53 or added to Sec. 814.66(1) consistent with guardianship filing fees based on the value of the guardianship estate, the $20 minimum filing fee or .02% of amounts over $50,000, like any new guardianship case. Alternatively, require $15, consistent with filing a foreign judgment, or the $20 probate minimum filing fee.

Require a filing fee for adult adoptions, clearly stated within Chapter 882, consistent with the civil filing fee, currently $75 under Sec. 814.61(1)(a).

Require a filing fee for trust cases filed in probate, clearly stated within Chapter 701 or Sec. 814.66(1), consistent with the civil filing fee, currently $75.

Require fees and costs charged by the Clerk of Court and Register in Probate to be the same for copies, certificates and searches.

Clerk of Court (COC) fees and costs vs. Register in Probate (RIP) fees and costs:

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<thead>
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<th>Service</th>
<th>COC Fee</th>
<th>RIP Fee</th>
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<tbody>
<tr>
<td>Copies:</td>
<td>Provided by COC - $1.25 per page, 814.61(10)(a)</td>
<td>Provided by RIP - $1.00 per page, 814.66(1)(h)</td>
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<tr>
<td>Certificate:</td>
<td>Issued by COC - $5.00, 814.61(5)</td>
<td>Issued by RIP - $3.00, 814.66(1)(g)</td>
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<td>Searches:</td>
<td>Search by COC - $5.00, 814.61(11)</td>
<td>Search by RIP - $4.00, 814.66(1)(j)</td>
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Res. 75-01/20
Supporting Legislation to Require the Department of Revenue to Share Utility Aid Payment Information with Counties and Municipalities

Moved/Sponsored by: Executive Committee

WHEREAS, utility aid payments help counties and municipalities pay for services provided to tax exempt utility property; and,

WHEREAS, currently, utility company asset data is not accessible to state and local elected officials in a manner that allows for determination regarding current and future utility aid payments in lieu of local general property taxation; and,

WHEREAS, costs cannot be directly recouped through property taxation since utilities are exempt from local taxation and, instead, are taxed by the state; and,

WHEREAS, these payments in lieu of taxes are also viewed as partial compensation for the air pollution, noise, traffic congestion, property maintenance, emergency services and land use limitations caused by the presence of utility property; and,

WHEREAS, there is pending legislation that will require the Department of Revenue (DOR) to annually publish on its internet site information related to the determination of utility aid payments received by counties and municipalities where production plan property is located, including the value, depreciation amounts, and generating capacity of production plants, the date of which such property is closed or decommissioned.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors hereby supports legislation to require the Department of Revenue to share the above-stated utility aid payment information with counties and municipalities.

BE IT FURTHER RESOLVED that the County Clerk is hereby directed to forward a copy of this resolution to the Wisconsin Counties Association and Legislators representing Walworth County:

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: January 14, 2020

Action Required: Majority Vote X Two-thirds Vote

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

David A. Bretl
County Administrator/Corporation Counsel

Jessica Conley
Finance Director

If unsigned, exceptions shall be so noted by the County Administrator.
Resolution No. 95-02/20
Supporting Outagamie County Board of Supervisors Resolution No 114-2019-20 Urging the Governor and Legislature to Submit an Application for a Waiver from Centers for Medicare and Medicaid Services (CMS) to Allow Federal Reimbursement of Short Term Acute Care and Transition Planning at Institutes for Mental Disease (IMD).

Moved/Sponsored by: Health and Human Service Committee

WHEREAS, The Outagamie County Board of Supervisors passed resolution 114-2019-20 on December 10, 2019; and,

WHEREAS, federal rules exclude patients age 22-64 from Medicaid coverage when they are receiving care in an Institute for Mental Disease (IMD); and,

WHEREAS, Walworth County is responsible for paying the high costs of IMD placements for consumers falling into the 22-64 excluded age range; and,

WHEREAS, Walworth County Department of Health and Human Services values fiscal responsibility and seeks to earn public trust through efficient, cost-effective stewardship of resources; and,

WHEREAS, a majority of the Health and Human Services Board voted to support Outagamie County’s resolution requesting that the Wisconsin State Legislature and Governor apply for waiver of this exclusion; and,

WHEREAS, this waiver of exclusion would allow for states to receive federal reimbursement for the cost of treatment in an IMD for the consumers described in this resolution;

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors supports Outagamie County Resolution No 114-2019-20 requesting that the Wisconsin State Legislature and Governor apply for a waiver from Centers for Medicare and Medicaid Services (CMS) to allow federal reimbursement of short term acute care and transition planning at Institutes for Mental Disease.

BE IT FURTHER RESOLVED that this resolution be sent to the Wisconsin Counties Association.

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: February 11, 2020
Action Required: Majority Vote X Two-thirds Vote Other

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

Michael P. Cotter  Date
Corporation Counsel

Mark W. Luberda  Date
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.

Jessica Conley  Date
Finance Director
Resolution No. 02-04/20
Supporting Budget Priorities to Improve Local Land and Water Resources

Moved/Sponsored by: Land Conservation Committee

WHEREAS, the County Land and Water Conservation Department (LWCD) is the local
delivery mechanism for a wide range of Wisconsin’s natural resource management programs
including non-point pollution control, farmland preservation, reclamation of non-metallic mines,
invasive species control, woodland management, lakes protection and more; and,

WHEREAS, LWCD professionals work as trusted, technical advisors to support producer-led
watershed groups, assist waterfront property owners, help farmers develop and implement
nutrient management plans, and respond to natural disasters like floods, and spend years building
the trust to be able to successfully do so; and,

WHEREAS, the conservation practices that LWCD professionals help landowners apply to farm
fields, forests, and shorelines have numerous water quality benefits, including: preventing soil
erosion and promoting soil health, increasing infiltration into groundwater aquifers, protecting
drinking water supply, reducing surface runoff and flood severity, and more; and,

WHEREAS, the State of Wisconsin codifies the counties’ role in coordinating and
implementing local conservation standards in Wis. Stats. Chap. 92, and defines a state-supported
staffing goal for every LWCD of an average of three positions at 100, 70, and 50 percent
support; and,

WHEREAS, the State of Wisconsin has not ensured baseline support of counties by meeting this
funding goal since its inception, and current state-funded LWCD staff number 40% fewer than
they did 20 years ago; and,

WHEREAS, the return on investment in county LWCDs is high; they amplify the impact of
state funding by leveraging federal and private grant dollars into more conservation on the land,
and more dollars into local economies; and,

WHEREAS, supporting county LWCDs was the top priority voiced by Wisconsinites at
statewide Water Quality Task Force hearings and elsewhere over the past year by farm,
conservation, environmental and local government groups alike, including Wisconsin Counties
Association, Dairy Business Association, Wisconsin Corn Growers, Wisconsin Farm bureau, and
Wisconsin Farmer’s Union; and,

WHEREAS, Senate Bill 723 seeks to provide an increase of $2,960,900 in baseline support to
county LWCDs, resulting in more conservation on the landscape, and better protection of water
quality; and,

WHEREAS, for 2020, Walworth County requested $207,623 for funding to cover staff using the
statutory formula, but received $144,668, creating a difference of $62,955; and,
WHEREAS, additional funding as supported by SB 723 would provide additional resources to put more conservation practices on the ground and leverage federal, state and private funds to support the LWCDs conservation efforts.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors does hereby urge the Wisconsin State Senate to schedule Senate Bill 723 to be heard on the floor of the Senate prior to the closure of the 2019-2020 legislative session, and vote to support the bill, providing necessary state support to counties, recognizing that if we are to improve water quality and achieve clean and safe drinking water and support a viable agricultural industry at the same time, county LWCD professionals are the best and most cost-effective solution we have.

BE IT FURTHER RESOLVED that the Walworth County Clerk is hereby directed to forward a copy of this resolution to the Governor of the State of Wisconsin, State legislators representing Walworth County, and the Wisconsin Counties Association.

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: APRIL 23, 2020

Action Required: Majority Vote X Two-thirds Vote _______ Other _______

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

Michael Cotter 4/6/2020
Corporation Counsel

Jessica Conley 4/6/2020
Finance Director

Mark W. Luberda 4/14/2020
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.

This Resolution/Ordinance was: Adopted: Roll Call/U.C. Voice
Presented/Referred/Laid Over

Present: Koes: Absent: Absent:

April 23, 2020
AMENDED
Resolution No. 05-04/20
Urging the State Legislature and Governor to Amend the Wisconsin Statewide Standing Order for the Dispensing of Naloxone

Moved/Sponsored by: Health and Human Services Board

WHEREAS, Walworth County has been identified as an area of concern for high rates of opioid overdose by the Wisconsin Department of Health Services; and,

WHEREAS, opioids are a class of drugs, which act directly on the nervous system which can depress the central nervous system and respiratory system which can result in death; and,

WHEREAS, naloxone is an opioid antagonist which counteracts the life-threatening depression of the central nervous system and respiratory system and has been proven to save lives; and,

WHEREAS, on October 26, 2017, the Department of Health and Human Services declared that the opioid crisis affecting our Nation a public health emergency; and,

WHEREAS, Walworth County Division of Public Health is required to respond to public health emergencies; and,

WHEREAS, Wisconsin local Public Health Departments are required to respond to the leading causes of premature death within their jurisdictions per Wisconsin Administrative Rule 140.02(c); and,

WHEREAS, local Public Health Departments are uniquely positioned to implement community level interventions; and,

WHEREAS, Public Health nurses make up a significant portion of the staff of local health departments; and,

WHEREAS, Registered Nurses in Wisconsin may only perform delegated acts for which there is a written protocol when in a professional capacity; and,

WHEREAS, Wisconsin Statute 441.18 addresses only opioid antagonist administration, delivery, and dispensing by an advanced practice nurse; and,

WHEREAS, Wisconsin Department of Health Services Chief Medical Officer Jonathan Meiman, MD issued a standing order allowing all Pharmacists to dispense naloxone; and,

WHEREAS, the Walworth County Health and Human Services Board supports the State Legislature and Governor amending the Wisconsin Statewide Standing Order for the dispensing
of naloxone to explicitly include local Public Health Departments, as established by Wisconsin Chapter 251, be authorized to dispense and administer naloxone for the purpose of responding to the declared national public health emergency and opioid overdose.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors urges the State Legislature and Governor to amend the Wisconsin Statewide Standing Order for the dispensing of naloxone to explicitly include local Public Health Departments, as established by Wisconsin Chapter 251, be authorized to dispense and administer naloxone for the purpose of responding to the declared national public health emergency and opioid overdose.

BE IT FURTHER RESOLVED that the Walworth County Clerk is hereby directed to send a copy of this resolution to the Governor of Wisconsin, State legislators representing Walworth County, and the Wisconsin Counties Association.

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: April 23, 2020

Action Required: Majority Vote X Two-thirds Vote ____ Other _____

Policy and Fiscal Note is attached. Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

Michael Cotter 4/24/2020
Corporation Counsel

Mark W. Luberda 4/24/2020
County Administrator

Jessica Conley 4/24/2020
Finance Director

If unsigned, exceptions shall be so noted by the County Administrator.

This Resolution/Ordinance was:
Adopted: Roll Call/U.C. Voice
Rejected/Referred/Laid Over
Ayes: Noes: Absent:
Date April 23, 2020
AMENDED
Resolution No. 06-04/20
Urging the State Legislature and Governor to Authorize County-Employed Human
Services Professionals to Administer Naloxone in Response to a Suspected Opioid Overdose

Moved/Sponsored by: Health and Human Services Board

WHEREAS, Walworth County has been identified as an area of concern for high rates of opioid
overdose by the Wisconsin Department of Health Services; and,

WHEREAS, opioids are a class of drugs, which act directly on the nervous system which can
depress the central nervous system and respiratory system which can result in death; and,

WHEREAS, naloxone is an opioid antagonist which counteracts the life-threatening depression
of the central nervous system and respiratory system and has been proven to save lives; and,

WHEREAS, Wisconsin 456.40 allows emergency medical service providers, fire fighters, and
law enforcement to administer opioid antagonists; and,

WHEREAS, Wisconsin 46.23 defines county human services as “the total range of services to
people including, but not limited to, health care, mental illness treatment, developmental
disabilities services, income maintenance, probation, extended supervision and parole services,
alcohol and drug abuse services, services to children, youth and aging, family counseling, special
education services, and manpower services”; and,

WHEREAS, Human services professionals have frequent contact with individuals with a high
likelihood of opioid exposure and overdose; and,

WHEREAS, fentanyl is a highly potent and increases the likelihood of an overdose; and,

WHEREAS, Walworth County has seen an increase in the presence of fentanyl in overdoses;
and,

WHEREAS, the Walworth County Health and Human Services Board supports the State
Legislature and Governor amending section 46.23 of the Wisconsin State Statutes to include
specific authorization for county-employed human services professionals to administer naloxone
in response to a suspected opioid overdose.

NOW, THEREFORE, BE IT RESOLVED that the Walworth County Board of Supervisors
urges the State Legislature and Governor to amend section 46.23 of the Wisconsin State Statutes
to include specific authorization for county-employed human services professionals to administer
naloxone in response to a suspected opioid overdose.
BE IT FURTHER RESOLVED that the Walworth County Clerk is hereby directed to send a
copy of this resolution to the Governor of Wisconsin, State legislators representing Walworth
County, and the Wisconsin Counties Association.

Nancy Russell
County Board Chair

Kimberly S. Bushey
County Clerk

County Board Meeting Date: April 23, 2020

Action Required: Majority Vote X Two-thirds Vote Other

Policy and Fiscal Note is attached.
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:

Michael P. Cotter/24/2020
Corporation Counsel

Jessica Conley/4/24/2020
Finance Director

Mark W. Liberta/2020
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.

This Resolution/Ordinance was:
Adopted Roll Call/U.C. Voice
Rejected/Referred/Laid Over

Ayes: Noes: Absent:
Date April 23, 2020
JUDITH DEMEUSE

-and-

THE ESTATE OF JAMES DEMEUSE

Plaintiffs,

-vs-

WALWORTH COUNTY
CORRECTIONS OFFICER PEGGY HORSTHEMKE,
CORRECTIONS OFFICER JARRETT MCCARDLE, and CORRECTIONS
OFFICER DOUG WELCH, each in his or her individual capacity,

Defendants.

COMPLAINT AND JURY DEMAND

NOW COME the plaintiffs, JUDITH DEMEUSE and THE ESTATE OF JAMES
DEMEUSE, by their attorneys, FOX & FOX, S.C., as and for a claim for relief against the
above-named defendants, respectfully allege and show to the Court as follows:

I. INTRODUCTION

1. This civil action seeks redress against defendants for committing acts
and/or omissions, under color of law, depriving plaintiffs of their rights under the
Constitution and the laws of the State of Wisconsin.

2. Between October 19, 2017 and October 20, 2017, Walworth County
Correctional Officers Peggy Horsthemke, James McCardle, and Doug Welch violated
James DeMeuse’s rights under 42 U.S.C. § 1983, the due process clause, and under the Constitution and laws of the State of Wisconsin by deliberately and recklessly not providing care for his serious medical conditions while in custody and by needlessly creating a risk of death or great bodily harm to DeMeuse by releasing him from a safe place into a hazardous one. The Walworth County’s Sheriff’s Office also violated DeMeuse’s rights under the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 and under the laws of the State of Wisconsin by failing to provide adequate supervision, training, and procedures regarding the proper and lawful medical screening of persons taken into custody and releasing said persons from custody, resulting in the hazardous release of DeMeuse on October 20, 2017 and his wrongful death thereafter.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal question jurisdiction), and 1343(a)(3) (42 U.S.C. § 1983 jurisdiction), and 28 U.S.C. § 1367 (supplemental state law claims). Venue is proper under 42 U.S.C. § 1391 (b) (2) which provides that actions may be brought in the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred and the conduct detailed in this complaint is alleged to have occurred in Walworth County, Wisconsin. This action is brought pursuant to 42 U.S.C. § 1983.
III. PARTIES

4. Judith DeMeuse is the widow of James DeMeuse and the personal representative of his estate. She is an adult citizen of the State of Wisconsin.

5. James DeMeuse is deceased. Before he died, he resided at W3505 Highway 50, Lake Geneva, Wisconsin. The Estate of James DeMeuse is represented by DeMeuse's widow and the personal representative of his estate, co-Plaintiff Judith DeMeuse.

6. Peggy Horsthemke ("Horsthemke") was, at all times relevant to this complaint, a duly appointed and acting Corrections Officer and an employee and agent of defendant Walworth County Sheriff's Office. At all times relevant to the allegations of this complaint Horsthemke was acting under the color of law within the meaning of 42 U.S.C. § 1983 and within her scope of employment within the meaning of Wis. Stat. § 895.46. Defendant Horsthemke is being sued in this matter in her individual capacity.

7. Jarret McCardle ("McCardle") was, at all times relevant to this complaint, a duly appointed and acting Corrections Officer and an employee and agent of defendant Walworth County Sheriff's Office. At all times relevant to the allegations of this complaint McCardle was acting under the color of law within the meaning of 42 U.S.C. § 1983 and within his scope of employment within the meaning of Wis. Stat. § 895.46. Defendant McCardle is being sued in this matter in his individual capacity.

8. Doug Welch ("Welch") was, at all times relevant to this complaint, a duly appointed and acting Corrections Officer and an employee and agent of defendant Walworth County Sheriff's Office. At all times relevant to the allegations of this
complaint Welch was acting under the color of law within the meaning of 42 U.S.C. § 1983 and within his scope of employment within the meaning of Wis. Stat. § 895.46. Defendant Welch is being sued in this matter in his individual capacity.

9. Defendant Walworth County is a municipal corporation organized and existing under the laws of the State of Wisconsin; the Walworth County Sheriff’s Office (“WCSO”) is organized under Walworth County and oversees all operations of the Walworth County Jail facility and which, at all times relevant to this complaint, employed defendants Horsthemke, McCardle, and Welch, and vested in and provided them with official authority as Corrections Officers.

10. Defendant Walworth County (and WCSO) is made a defendant in this action on the ground of its Monell liability for violations of James DeMeuse’s civil rights and also on the ground of its liability as indemnitor, under Wis. Stats. § 895.46, to pay any judgment for damages and costs entered against defendants Horsthemke, McCardle, and Welch in their individual capacities for acts done within the scope of their employment while carrying out their duties as Corrections Officers and employees of WCSO. As an indemnitor, Walworth County is subject to and an appropriate party for the Court’s exercise of its supplemental jurisdiction under 28 U.S.C. § 1367.

IV. FACTUAL ALLEGATIONS

11. In October 2017, James DeMeuse was a 70-year-old suffering from dementia and other health problems. He lived with his wife of over 50 years, Judith DeMeuse, in the Lake Geneva home in which they had raised their two children.
12. Mr. DeMeuse's condition caused him to have occasional physical outbursts, and on October 19, 2017, he had an outburst that frightened his wife Judith enough that she called 9-1-1 for assistance. This was not the first time that Judith had requested police intervention to assist with James' behavior, but James was her husband for more than 50 years, she loved him very much, she was aware of his compromised cognitive ability and she remained hopeful that he would receive the kind of medical attention he needed to address his condition.

13. Walworth County dispatched two officers from the Town of Geneva Police Department to the DeMeuse residence in response to Judith's October 19, 2017 9-1-1 call and arrived at the DeMeuse residence at approximately 3:00 PM.

14. Upon arrival, they interviewed Judith, James, and their son, Todd, who lived next door and had also come to assist his mother. Judith explained to the officers that James suffered from dementia that compromised his ability to care for himself and needed to be medically evaluated. She requested that he be placed on a 72 hour hold so that a proper medical evaluation could be conducted.

15. She also explained that if he was to be released, she or her son needed to be contacted so that James could be picked up as he would not know where he was or where to go, nor how to contact anyone to pick him up.

16. She also provided the officer with a telephone number to facilitate the contact she requested.
17. James was arrested for domestic abuse, battery and disorderly conduct and taken to the Walworth County Jail, where he was turned over to the WCSO staff for intake and booking.

18. Pursuant to procedure, officers from the Town of Geneva Police Department completed WCSO’s “Notice of Arrest” paperwork to be provided to WCSO staff and included as part of WCSO’s intake and booking process.

19. That paperwork alerted readers to James’ dementia a mental impairment that was corroborated by James’ obviously confused narrative regarding what had occurred between him and Judith putting WCSO and its staff on notice of his conditions and need for close monitoring and medical attention.

20. The paperwork clearly communicated that Judith waived the 72-hour contact prohibition that would otherwise apply to a domestic abuse related charge so that she could assist him to return home because he could not safely care for himself.

21. Pursuant to policy and practice, the Notice of Arrest paperwork was given to WCSO staff who were responsible for James’ intake upon his arrival at the Walworth County Jail facility.

22. WCSO has a written “Receiving/Screening” policy and procedure that requires an intake medical screening to be performed on all potential inmates upon admission but before acceptance for incarceration into the Walworth County Jail facility.

23. This intake medical screening policy and procedure consists of an Inmate Health Screening form with a number of yes or no questions to be asked of potential
inmates by the Correctional Officer(s) on duty in booking and is intended to assess potential health hazards for the potential inmate.

24. Defendants Horsthemke and McCardell were the officers on duty when James arrived and were responsible for his intake screening and booking into the Walworth County Jail facility. They were the officers who received the Notice of Arrest paperwork to review as part of their intake screening of him.

25. Defendant Horsthemke completed the Inmate Health Screening form for James, which indicated that he had been seen by a doctor three months earlier for an unknown reason, that he did not know the name or dosage for his high blood pressure medication, that he took other medication but did not know the name of the medications or the diagnoses they treated, and that he did not have any of his prescribed medications with him.

26. These answers and the information from the Notice of Arrest communicated to an objectively reasonable police officer in the position of defendants Horsthemke and McCardell that Mr. DeMeuse had diminished capacity and was a health hazard to his own well-being. The Walworth County Jail “Receiving/Screening” policy required them to contact the jail nurse and seek a further medical assessment from the jail health staff before James was placed in the general jail population. However, the jail nurse was not contacted, and a further medical assessment from the jail health staff was neither sought nor conducted.

27. The County’s Intake Health Screening procedure recklessly disregards the need to adequately assess a potential inmate like Mr. DeMeuse for acute mental health
hazards such as dementia or other memory or confusion ailments that are particularly prevalent in its aging population demographic.

28. At this point, given the Notice of Arrest indicating his dementia, as well as his inability to answer questions about his medical treatment and medications, together with the fact that he took unknown prescription medications that he did not have with him, Horstemke, McCaDell and WCSO were on notice that Mr. DeMeuse had a serious medical condition that required monitoring and that could not be recklessly disregarded.

29. Horstemke electronically signed Mr. DeMeuse’s Inmate Health Screening form at 5:43 P.M. on October 19, 2017 and DeMeuse was subsequently admitted into the Walworth County Jail facility.

30. The Inmate Health Screening form was not signed by Mr. DeMeuse, despite the requirement for an inmate’s signature acknowledging that the information on the form is true and correct.

31. Mr. DeMeuse spent the night of October 19, 2017, into the afternoon of October 20, 2017, in Intake Housing at the Walworth County Jail facility, during which time he continued to display symptoms of a serious mental health and medical condition.

32. On October 20, 2017 at approximately 1:15 PM, Mr. DeMeuse had video arraignment with the Walworth County Circuit Court, whereby bond conditions were set, which included a $10,000 signature bond, no contact with Judith DeMeuse, and permission to go to his residence with a police officer in order to retrieve his personal
belongings. No agent of Walworth County informed the Court of Mr. DeMeuse's
c Condition and the fact that his wife had waived the no-contact provision so that she
could assist him to get home.

33. At approximately 3:25 PM, WCSO received Mr. DeMeuse's bond
paperwork from the Walworth County Circuit Court, and Defendant Welch presented
the paperwork to Mr. DeMeuse for his signature.

34. During this encounter with Welch, Mr. DeMeuse was clearly confused; he
expressed that he did not know where to go, had no transportation, and did not know
any phone numbers; he needed assistance in signing the paperwork.

35. Despite Mr. DeMeuse's obvious confusion and bond conditions that
permitted him to go to his residence with a police officer, and despite his and WCSO
having notice of his severely disabling condition of dementia from the Notice of Arrest,
Defendant Welch instructed him where to sign the paperwork, released his property
back to him and told him that he had to leave, recklessly disregarding his obvious
confusion and need for assistance and the danger release from custody presented to Mr.
DeMeuse's life and liberty.

36. Shortly after 3:45 PM, Mr. DeMeuse left the WCSO alone and on foot.

37. Nobody from WCSO, including but not limited to Welch, contacted Judith
DeMeuse or any other family member to alert them to Mr. DeMeuse's release.

38. Nobody from WCSO, including but not limited to Welch, made
arrangements to ensure that Mr. DeMeuse had transportation from the WCSO upon his
release, nor did anyone from WCSO provide him with transportation and a police
officer escort to retrieve his personal belongings from home, as permitted by the bond paperwork, which provided that he could go to his residence to retrieve his belongings under the supervision of a law officer.

39. Later that evening, Judith called the WCSO to inquire of her husband's status, only to learn that he had been released hours earlier. This caused her great distress and she reiterated her statements from the day before that James has dementia and needed to be evaluated and that she needed to be contacted when he was released. She questioned why she was not contacted but was given no answer.

40. At approximately 6 p.m. that evening, a citizen reported an elderly man walking in the median of Highway 12 in Lake Geneva. Town of Geneva Police Officer Kevin McNutt responded to the report and confirmed that the description of the elderly man matched that of James DeMeuse; a search of the area was conducted but no person was found.

41. By approximately 10 p.m. that evening on October 20, 2017, Officer McNutt completed paperwork to enter Mr. DeMeuse into the National Crime Information Center ("NCIC") as a missing person and also contacted the Silver Alert Branch of the Wisconsin Department of Justice in order to enter him as a silver alert.

42. The criteria for a Silver Alert to be issued include that a missing individual is driving a car or lost on foot, and the missing person is 60 years or older, and there is a clear indication that the individual has an irreversible deterioration of intellectual abilities, such as Alzheimer's or dementia.
43. At approximately 2:30 a.m. on October 21, 2017, a Silver Alert was issued by the Wisconsin Crime Alert Network with instructions to “Be on the lookout for (James DeMeuse) who is missing and believed to have dementia or some other cognitive impairment.”

44. For the next several months, the Silver Alert remained in effect, and the search for Mr. DeMeuse continued, which included efforts from local law enforcement and citizens, but he was not found.

45. More than five months later, on April 1, 2018, two teenagers found Mr. DeMeuse’s decomposed body in a marsh approximately 300 feet north of County Highway H in the Town of Geneva, a location approximately 10 miles from the Walworth County Jail facility.

46. Mr. DeMeuse’s body was mostly mummified, had no internal organs, and had been attacked by animals to his feet, lower abdomen, right arm and head.

47. Defendant Walworth County failed to promulgate and enforce procedures to provide adequate medical screening and supervision of potential inmates like Mr. DeMeuse, despite the fact that the need for such procedures, screening and supervision was obvious.

48. Defendant Walworth County failed to promulgate and enforce procedures and to provide adequate training and supervision regarding the release of vulnerable inmates like Mr. DeMeuse, despite the fact that the need for such procedures and training was obvious.
49. This failure by defendant Walworth County to provide procedures and training and supervision regarding the medical screening and eventual release of obviously infirm inmates from its custody was a substantial cause of the unlawful conduct of defendants McCardle, Horsthemke, and Welch, who were aware that Mr. DeMeuse had serious medical conditions, were deliberately indifferent to his medical conditions, including his obvious inability to care for himself and communicate his needs, and needlessly created risk of harm to him by releasing him into a hazardous and dangerous situation that caused his death, as set forth in the preceding paragraphs, and the resultant violation of Mr. DeMeuse's Constitutional Due Process rights.

50. Before he died, Mr. DeMeuse endured severe emotional and physical pain and suffering.

51. Plaintiff Judith DeMeuse has suffered severe emotional trauma, loss of society and companionship, and severe pain and suffering from her husband's wrongful death.

V. FIRST CAUSE OF ACTION AGAINST HORSTHEMKE & MCCARDLE - VIOLATION OF CONSTITUTIONAL RIGHTS - DELIBERATE INDIFFERENCE

52. For a cause of action against defendants Horsthemke and McCardle, in their respective individual capacities, under 42 U.S.C. § 1983, plaintiffs reallege and incorporate by reference each of the preceding paragraphs above.

53. As a direct and proximate result of the acts and/or omissions of defendants Horsthemke and McCardle, as set forth in the preceding paragraphs, by refusing to address Mr. DeMeuse's need for care for his serious medical conditions,
defendants acted with reckless disregard and were deliberately indifferent to Mr. DeMeuse and his serious medical conditions, thereby depriving him of his rights to medical treatment while in custody, as provided under the 42 U.S.C. § 1983.

54. The misconduct described in this Count was undertaken with malice, willfulness, or reckless indifference to the rights of others.

55. The misconduct described in this Count was objectively unreasonable and was undertaken by defendants within the scope of their employment and under color of law such that their employer, Walworth County, is liable for their actions.

56. The misconduct described in this Count was undertaken pursuant to the policy and practice of the WSCO and Walworth County Jail facility in the manner described more fully above.

57. As a result of the misconduct described in this Count, the Estate of James DeMeuse suffered damages, including but not limited to emotional distress and anguish, as well as physical pain and suffering, and the wrongful death of Mr. DeMeuse.

58. The wrongful conduct of defendants, as set forth above, was intentional or malicious or was wantonly committed by defendants in callous disregard of Mr. DeMeuse's constitutional rights, and plaintiff is therefore entitled to an award of punitive damages against these defendants.
VI. SECOND CAUSE OF ACTION
AGAINST DEFENDANT WELCH—VIOLATION OF CONSTITUTIONAL RIGHTS
- DUE PROCESS

59. For a cause of action against defendant Welch in his individual capacity, under 42 U.S.C. § 1983, plaintiffs reallege and incorporate by reference paragraphs 1 through 50 above.

60. As a direct and proximate result of the acts and/or omissions of defendant Welch, and as a continuation of the violation of plaintiff’s rights begun by Horsthemke and McCardle when they deprived Mr. DeMeuse the medical care he needed for his serious medical conditions at intake, Mr. DeMeuse was denied the due process entitled to him under the United States Constitution, including, but not limited to, the right to not be propelled into danger by public employees, as was done to Mr. DeMeuse by Welch when he was released from the Walworth County Jail facility, as described more fully above.

61. The misconduct described in this Count was objectively unreasonable and was undertaken with malice, willfulness, and reckless indifference to the rights of others.

62. The misconduct described in this Count was undertaken by defendant within the scope of his employment and under color of law such that his employer, Walworth County, is liable for their actions.

63. The misconduct described in this Count was undertaken pursuant to the policy and practice of the WSCO and Walworth County Jail facility in the manner described more fully above.
64. As a result of the misconduct described in this Count, the plaintiffs have suffered damages, including but not limited to emotional distress and anguish, as well as physical pain and suffering, and the wrongful death of Mr. DeMeuse.

65. The wrongful conduct of defendant, as set forth above, was intentional or malicious or was wantonly committed by defendants in callous disregard of Mr. DeMeuse's constitutional rights, and plaintiffs are therefore entitled to an award of punitive damages against this defendant.

VII. THIRD CAUSE OF ACTION
AGAINST DEFENDANT WALWORTH COUNTY - VIOLATION OF CONSTITUTIONAL RIGHTS


67. By failing to provide Horsthemke, McCardle, and Welch with adequate procedures, training, and supervision, despite the notice that such failure was likely to result in constitutional deprivations, as set forth in the preceding paragraphs, defendant Walworth County caused James DeMeuse to suffer violations of his constitutional rights, as set forth in the preceding paragraphs, and defendant Walworth County thereby acted with deliberate indifference to those rights and to the rights of other persons with whom the WCSO's officers come into contact.

68. As a direct and proximate result of this unlawful and unconstitutional conduct by defendant Walworth County, James DeMeuse sustained physical, mental and emotional distress, pain and suffering, and the wrongful death of Mr. DeMeuse, and other damages. The plaintiffs will continue to suffer these damages into the future.
VIII. FOURTH CAUSE OF ACTION
AGAINST ALL DEFENDANTS - WRONGFUL DEATH

69. For a cause of action against all defendants, for negligently causing the
wrongful death of James DeMeuse, plaintiffs reallege and incorporate by reference all
preceding paragraphs.

70. By failing to provide James DeMeuse with adequate medical screening
and care, and by releasing Mr. DeMeuse into a dangerous situation with disregard for
his safety and well-being, as set forth in the preceding paragraphs, defendants were
negligent in the duty of care owed to Mr. DeMeuse.

71. As a direct and proximate result of this unlawful by defendants, plaintiffs
sustained physical, mental and emotional distress, pain and suffering, and the wrongful
death of Mr. DeMeuse, and other damages. The plaintiffs will continue to suffer these
damages into the future.

WHEREFORE, Plaintiffs Estate of James DeMeuse and Judith DeMeuse
respectfully requests that this Court enter judgment in their favor and against
Defendants, WALWORTH COUNTY, HORSTHEMKE, MCCARDLE, and WELCH as
follows in amounts to be determined by the jury:

a. Compensatory damages;

b. Punitive damages against the individual defendant officers ;

c. Attorney fees, costs, and disbursements and expert witness fees pursuant
to 42 U.S.C. § 1988 and Wis. Stat. § 814; and

d. Any further relief as law and justice require.
JURY DEMAND

Plaintiffs hereby demand a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all triable issues.

Dated at Monona, Wisconsin this 20th day of March, 2020.

Respectfully submitted:

FOX & FOX, S.C.

s/ Peter J. Fox
State Bar Number 1037925
E-mail: pfox@foxquick.com
Michael R. Fox
State Bar Number 01015173
E-mail: mfox@foxquick.com
Attorney for Plaintiffs
Fox & Fox, S.C.
124 West Broadway
Monona, WI 53716
Telephone: 608-258-9588
Fax: 608-258-9105
In the Supreme Court of Wisconsin

JERÉ FABICK AND LARRY CHAPMAN,

Petitioners,

v.

ANDREA PALM, JULIE WILLEMS VAN DIJK, NICOLE SAFAR, IN THEIR OFFICIAL CAPACITIES AS EXECUTIVES OF WISCONSIN DEPARTMENT OF HEALTH SERVICES; JOSH KAUL, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF WISCONSIN; DAVID ERWIN, IN HIS OFFICIAL CAPACITY AS CHIEF OF THE WISCONSIN STATE CAPITOL POLICE; DAVID MAHONEY, IN HIS OFFICIAL CAPACITY AS SHERIFF OF DANE COUNTY, WISCONSIN; ISMAEL OZANNE, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF DANE COUNTY, WISCONSIN; ERIC SEVERSON, IN HIS OFFICIAL CAPACITY AS SHERIFF OF WAUKESHA COUNTY, WISCONSIN; SUSAN OPPER, IN HER OFFICIAL CAPACITY AS THE DISTRICT ATTORNEY OF WAUKESHA COUNTY, WISCONSIN; KURT PICKNELL, IN HIS OFFICIAL CAPACITY AS SHERIFF OF WALWORTH COUNTY; AND ZEKE WIEDENFELD, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF WALWORTH COUNTY, WISCONSIN.

Respondents.

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EMERGENCY PETITION FOR ORIGINAL ACTION

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Charles J. Cooper*
Adam P. Laxalt*
Vincent J. Colatriano*
Harold S. Reeves*
John D. Ohlendorf*
COOPER & KIRK, PLLC
1523 New Hampshire Ave., NW
Washington, DC 20036
(202) 220-9600
(202) 220-9601 (Fax)
ccooper@cooperkirk.com

Matthew M. Fernholz
Counsel of Record
CRAMER, MULTHAUF, & HAMMES, LLP
1601 East Racine Ave.,
Ste. 200
P.O. Box 558
Waukesha, WI 51387
(262) 542-4278
(262) 542-4270 (Fax)
mmf@cmhlaw.com

Counsel for Petitioners

*Applications to appear pro hac vice forthcoming.
EMERGENCY PETITION FOR ORIGINAL ACTION

Petitioners, by their attorneys, respectfully and urgently petition the Wisconsin Supreme Court, pursuant to Wisconsin Statutes § 809.70 and Article VII, Section 3(2) of the Wisconsin Constitution, to take original jurisdiction of this action against Respondents seeking to vindicate Petitioners’ rights under the Wisconsin Constitution.

ISSUES PRESENTED

I. Whether Emergency Order 28 (“EO 28” or the “Order”) issued by Respondent Palm on April 16, 2020 infringes upon Petitioners’ rights to freedom of worship and liberty of conscience protected under Article I, Section 18 of the Wisconsin Constitution.

II. Whether the Order infringes upon Petitioners’ rights to freedom of speech and assembly protected under Article I, Sections 3 and 4 of the Wisconsin Constitution.

III. Whether the Order infringes upon Petitioners’ right to travel as protected under the Wisconsin Constitution.

IV. Whether this Court should issue an order enjoining operation and enforcement of those provisions of the Order that infringe upon Petitioners’ rights under the Wisconsin Constitution.
INTRODUCTION

Petitioners come before this Court to vindicate the principle that even in times of crisis, and perhaps especially then, the rights and freedoms protected by the Wisconsin Constitution are worthy of protection. The Court is obviously aware of the current public health crisis that grips the Nation. No one doubts the seriousness of the COVID-19 pandemic, or that it poses life-and-death risks to Wisconsin’s citizens, especially those who are elderly or otherwise infirm. But the actions Respondents have taken to combat those risks, no doubt in good faith, have gone too far, needlessly infringing our most basic constitutional liberties—to an extent that is without precedent and that would have been virtually unimaginable in a free society just two months ago. The Emergency Order Respondents have promulgated and enforced, EO 28, includes restrictions that are simply irreconcilable with the founding constitutional commitments of this State:

- The Order imposes a discriminatory nine-person cap on gatherings for religious worship, even as it allows numerous other similar activities to take place without any similar numerical restriction.

- The Order effectively bans any political gatherings, of any number, at any time, and in any place—including political protests, rallies, demonstrations, and even two neighbors sitting down at opposite ends of a park bench to talk politics.
• The Order imposes a form of modified house arrest on every Wisconsin resident, forbidding the exercise of the most basic liberty imaginable—a liberty that is a necessary predicate of virtually every other constitutional right: the freedom to simply leave one’s home and travel about on public roads and in public spaces (or even walk next door to visit a neighbor without ever utilizing public thoroughfares).

Restrictions as profound and intrusive as these must be subjected to the most rigorous level of constitutional scrutiny. But as discussed in detail in our supporting brief, these restrictions cannot survive even basic scrutiny. Once again: Petitioners do not question the seriousness of the present health crisis, or the weight of the State’s interest in dealing with it. But the inexplicable lines drawn and distinctions made in the Order that Respondents have promulgated in response to the epidemic refute any contention that these constitutional infringements are the least restrictive means, or even sensible means, of combatting the virus.

The State has the unquestioned authority—and duty—to implement reasonable measures to stem the tide of the COVID-19 epidemic. But even a public health crisis does not give the State executive authorities license to impose measures that are arbitrary and irrational, or that patently violate our most sacred constitutional rights. This Court should exercise original jurisdiction and grant an injunction.
STATEMENT OF FACTS

1. Petitioner Jeré C. Fabick is a resident of Waukesha County, Wisconsin.

2. Petitioner Larry Chapman is a resident of Walworth County, Wisconsin. Petitioner Chapman is a Christian and a member of Lakewood Baptist Church, located in Pewaukee, Wisconsin, and regularly attended Sunday worship there before the COVID-19 pandemic.

3. Respondent Andrea Palm is the Secretary-Designee of the Wisconsin Department of Health Services (“DHS”). Her office is located at 1 West Wilson Street, Madison, Wisconsin, 53703.

4. Respondent Julie Willems Van Dijk is the Deputy Secretary of DHS. Her office is located at 1 West Wilson Street, Madison, Wisconsin, 53703.

5. Respondent Nicole Safar is an executive at DHS. Her office is located at 1 West Wilson Street, Madison, Wisconsin, 53703.

6. Respondent Josh Kaul is the Attorney General of Wisconsin. He is the chief law officer in the State of Wisconsin and directs and supervises the Wisconsin Department of Justice. His mailing address at the Wisconsin Department of Justice is PO Box 7857, Madison, Wisconsin, 53707.
7. Respondent David Erwin is the Chief of the Wisconsin State Capitol Police. The Capitol Police has statewide jurisdiction. Among its duties, in addition to law enforcement, are the protection of State property and the issuance of permits for demonstrations and other public gatherings on State property, including but not limited to the grounds of the State Capitol. The headquarters of the Capitol Police are located at 17 W. Main Street, Madison Wisconsin, 53703.

8. Respondent David Mahoney is the Sheriff of Dane County, Wisconsin, the largest law enforcement agency in Dane County, and the fourth largest in the State. The Dane County Sheriff’s office is located at 115 W. Doty Street, Madison, Wisconsin, 53703.

9. Respondent Ismael Ozanne is the District Attorney of Dane County, Wisconsin. His office is responsible for, among other things, prosecuting crimes committed within Dane County. His office is located at 215 S. Hamilton Street, Madison Wisconsin, 53703.

10. Respondent Eric Severson is the Sheriff of Waukesha County, Wisconsin. The Waukesha County Sheriff’s office is located at 515 W. Moreland Boulevard, Waukesha, Wisconsin, 53188.
11. Respondent Susan Opper is the District Attorney of Waukesha County, Wisconsin. Her office is responsible for, among other things, prosecuting crimes committed within Dane County. Her office is located at 515 W. Moreland Boulevard, Waukesha, Wisconsin, 53188.

12. Respondent Kurt Picknell is the Sheriff of Walworth County, Wisconsin. The Walworth County Sheriff’s office is located at 1770 County Road NN, Elkhorn, Wisconsin, 53121.

13. Respondent Zeke Wiedenfeld is the District Attorney of Walworth County, Wisconsin. His office is responsible for, among other things, prosecuting crimes committed within Walworth County. His office is located at 1800 County Trunk NN, Elkhorn, Wisconsin, 53121.


15. Beginning in March 2020, the Governor and several State agencies have issued multiple orders addressing aspects of the State’s response to the coronavirus pandemic. As relevant here, on March 12, Governor Evers issued Executive Order 72 which, among other things, declared the existence of a public health emergency in the State, designated DHS as the “lead agency” to respond to that emergency, and directed DHS “to take all
necessary and appropriate measures to prevent and respond to incidents of COVID-19 in the State.”

16. Respondent Palm has since issued a series of orders addressing the COVID-19 pandemic. One of those orders, Emergency Order 12 (EO 12), was issued on March 24, 2020 (Petitioners’ Appendix (“Pet. App.”) 3). This so-called “Safer at Home Order” imposed sweeping restrictions on all individuals and most businesses within the State, and included (as discussed more fully below in connection with its successor order) provisions (1) severely limiting religious gatherings, (2) banning virtually all public and private gatherings of any nature, and (3) ordering, with limited exceptions, all individuals to stay at home and to cease all non-essential travel. EO 12 became effective on March 25, and by its terms was to remain in effect until April 24 “or until a superseding order [was] issued.” EO 12 § 20 (Pet. App. 18).

17. EO 12’s sweeping restrictions have had devastating impacts on the State’s economy and on almost every facet of the everyday lives and livelihoods of its citizens and residents.

18. Although Petitioners had serious concerns about the impacts of the restrictions imposed by EO 12, and about EO 12’s impingement upon
their and others’ constitutional rights and freedoms, the expressly-limited (30-day) duration of the order led Petitioners to decide against challenging the constitutionality of the order’s restrictions at that time.

19. However, on April 16, 2020, Respondent Palm issued Emergency Order 28 (“EO 28” or the “Order”). This Order, which became effective at 8:00 a.m. on April 24, reimposed virtually all of the restrictions originally imposed by EO 12, and extended those restrictions for at least another month (until May 26). EO 28 § 21 (Pet. App. 39). Thus, by the end of the Order’s stated period of effectiveness, the core restrictions in the Order will have been in effect throughout the State for more than 60 days. Notably, Respondents have provided no assurances that they will not extend those restrictions again at the end of the May, and indeed, all indications suggest that the Order will likely be extended in substantially its current form.

20. As noted, the Order’s restrictions touch upon nearly every facet of public and private life in Wisconsin. And the Order provides (as did EO 12) that its restrictions are enforceable “by any local law enforcement official,” and that any violations or obstructions of its provisions are punishable as crimes by fine (up to $250), imprisonment (up to 30 days), or both. EO 28 § 18 (Pet. App. 39). As relevant to this petition and motion, and as
described more fully in the succeeding paragraphs, the Order severely restricts, on pain of criminal penalty, the exercise of several rights and freedoms:

21. **Restrictions on “religious entities”:** Although religious facilities and gatherings are designated by the Order as “essential” business activities that are allowed to continue, they are subject to special restrictions not applicable to any other essential activities. In particular, the Order decrees that all religious services and gatherings, including weddings and funerals, “shall include fewer than 10 people in a room or confined space at a time.” EO 28 § 13(h) (Pet. App. 32). This nine-person limit on religious gathering applies regardless of the size of the religious facility in question or the nature of the religious practice at issue, and regardless of whether that practice can be performed in accordance with masking practices and with the social distancing requirements that are generally imposed to minimize the risk of transmission of the virus. Again, EO 28 does not impose a nine-person quota on any other establishment or activity in Wisconsin.

22. **Restrictions on speech and assembly:** The Order flatly prohibits “[a]ll public and private gatherings of any number of people that are not part of a single household or living unit,” other than for “the limited
purposes expressly permitted in this Order.” EO 28 § 3 (Pet. App. 23). Notably, the “expressly permitted” purposes do not include the exercise of such core liberties as the right to assemble for purposes of political speech, or to protest government action (including, for example, to protest the Order itself).

23. **Restrictions on travel**: The Order imposes sweeping and unprecedented restrictions on freedom of movement. Thus, its very first section provides that “[a]ll individuals present within the State of Wisconsin are *ordered* to stay at home or at their place of residence,” with certain limited specified exceptions. EO 28 § 1 (Pet. App. 20) (emphasis added). Section 5 of the Order reinforces Section 1 by providing that “[a]ll forms of travel” other than “essential travel” are flatly “prohibited.” EO 28 § 5 (Pet. App. 25). “Essential” travel allowed under these provisions is defined to cover travel for essential business operations and governmental functions, certain defined “essential activities” (such as activities essential to health and safety, to obtain necessary supplies and services, to engage in certain outdoor activities, and to take care of others), and certain designated “special situations” (such as healthcare and human service operations and work relating to “essential” infrastructure). EO 28 §§ 1, 15 (Pet. App. 21, 37). Essential travel
is also defined to include travel to care for certain vulnerable persons, travel
to or from educational institutions for certain limited purposes, travel for a
Wisconsin resident to return from outside the jurisdiction and for non-resi-
dents to return to residences outside Wisconsin, and travel required by law
enforcement or court order. EO 28 § 15 (Pet. App. 37–38). All other travel,
regardless of its purpose and regardless of whether it can be accomplished
without significant risk of transmission of the virus, is prohibited under the
Order.

24. On April 20, Respondent Palm issued another order, Emer-
gency Order 31 (“EO 31”), titled the “Badger Bounce Back,” which an-
nounced the “phased approach” the State would employ “to re-opening its
economy and society” over some unannounced and undetermined period of
time. EO 31 § 1 (Pet. App. 41–42). EO 31 accorded to DHS itself the power
to determine when it was appropriate to “progress” from one “phase” of re-
opening to the next. EO 31 § 2 (Pet. App. 42). Significantly, EO 31 makes
clear that nothing in it “modifies, alters, or supersedes” EO 28 or the re-
strictions imposed by that Order. EO 31 § 5 (Pet. App. 43).

25. EO 31 does contemplate that DHS may issue additional orders
“reducing restrictions” imposed by other orders as circumstances warrant.
Although DHS has since issued at least one order slightly relaxing some of the restrictions imposed by the Order,\(^1\) it has not to date issued any order significantly “reducing” any of the restrictions that are the subject of this Petition, and it has not suggested that any such orders are forthcoming.

26. Petitioner Chapman is a member of Lakewood Baptist Church in Pewaukee Wisconsin; he regularly attended Sunday worship at Lakewood, before the present epidemic. Because of EO 28, Lakewood is no longer able to hold regular, in-person Sunday worship. Like many other places of worship, Lakewood has worked hard to make a variety of “virtual” worship opportunities and resources available during the pandemic. But while Mr. Chapman is grateful for those opportunities, in his faith, they are not an adequate substitute for in-person, corporate worship with the body of other believers at Lakewood. Mr. Chapman believes that Scripture calls for regular in-person worship, not regular worship at home in front of the computer. Moreover, Lakewood’s worship services regularly include the celebration of Holy Communion, and that simply cannot take place in a “virtual” setting. Further still, Mr. Chapman is concerned that many of the more elderly

\(^1\) See, e.g., Emergency Order 34 (issued April 27, 2020) (Pet. App. 44) (allowing certain “curb-side” activities for some businesses, rentals of certain types of recreational equipment, and the reopening of some types of car washes).
members of his congregation are unable to access and utilize the “virtual” worship resources Lakewood has provided. For these reasons, Mr. Chapman wishes and intends to attend public, in-person, corporate worship at Lakewood again, as called for by Scripture, as soon as it is possible. Average attendance at one of Lakewood’s Sunday services before the pandemic, was about 500 believers; but Lakewood could easily hold smaller services, with individuals and family groups maintaining social distance and abiding by all leading masking and other public-health safeguards, during the pandemic.

27. As noted, Petitioner Fabick is a long-time resident of Wisconsin who lives in Waukesha County. The Order has had a significant impact on his exercise and enjoyment of his rights and freedoms, including but not limited to his rights of free speech and assembly and his right to travel. He has been very concerned and alarmed about the wisdom and legality of many of the actions taken by Respondents in response to the pandemic, and wishes to engage in peaceful protest with respect to those and other actions and policies of the State. In fact, were it not for the provisions of the Order prohibiting all public gatherings and all non-essential travel, Petitioner Fabick would have traveled to Madison to join in the protest held there on April 24.
STATEMENT OF THE RELIEF SOUGHT

Petitioners respectfully request that this Court issue an order immediately and permanently enjoining enforcement of the following provisions of Emergency Order 28, and any other provisions of that Order to the extent they are related to the implementation, interpretation, or enforcement of such provisions:

(1) The provision of Section 13(h) of the Order limiting religious gatherings to fewer than ten people in a room or confined space;

(2) The provision of Section 3 of the Order prohibiting all public and private gatherings of any number of people that are not part of a single household or living unit;

(3) The provision of Section 1 of the Order ordering all individuals present within Wisconsin to stay at home or at their place of residence;

(4) The provision of Section 5 of the Order prohibiting all forms of travel;

(5) The provision of Section 18 of the Order to the extent it authorizes enforcement by law enforcement officials of those aspects of the Order that have been enjoined.
Any order issued by the Court should provide that nothing in it should be construed to enjoin enforcement of Social Distancing Requirements as defined under Section 16 of the Order or to preclude application of such Social Distancing Requirements or other general reasonable risk-mitigation measures to activities allowed to resume as a result of this injunction.

The Court’s order should direct Respondent Palm to issue an order or other guidance advising law enforcement officials that they shall not enforce those provisions of the Order whose enforcement has been enjoined while this Court’s injunction remains in effect.

The Court should issue a declaration that the above-referenced provisions of the Order are unconstitutional and unenforceable, and it should issue any other relief that it considers just and proper.

Finally, the Court should award such other and further relief as is just and proper, including, without limitation and to the extent available, Petitioners’ reasonable costs and attorneys’ fees.
STATEMENT OF REASONS WHY THE COURT SHOULD TAKE JURISDICTION

The matters raised by this Emergency Petition and Motion satisfy the criteria for this Court’s exercise of its original jurisdiction under Article VII, Section 3 of the Wisconsin Constitution. There can be no legitimate dispute that this is an “exceptional case[] in which a judgment by the court [would] significantly affect[] the community at large.” Wisconsin Professional Police Ass’n v. Lightbourn, 2001 WI 59, ¶4, 243 Wis. 2d 512, 627 N.W.2d 807. Indeed, it is hard to imagine a set of circumstances that would better fit that description. EO 28 has dramatically affected, in an unprecedented manner, not just the “community at large,” but almost every aspect of the lives and livelihood of every person in a State with a population of almost six millions people, as well as virtually every business and religious organization in the State. The reach and impact of the actions at issue in this Petition utterly dwarf the reach and impact of actions that this Court has in the past found sufficiently exceptional to warrant the exercise of original jurisdiction. See, e.g., id. (challenge to statute impacting the interests of 460,000 participants in pension system): In re State ex rel. Attorney General, 220 Wis. 2d 25, 264 N.W. 633, 634 (1936) (noting the propriety of exercising original jurisdiction
in case challenging constitutionality of statutes affecting “innumerable members and employees of industry throughout Wisconsin”) (citation omitted).

This case also presents constitutional—indeed, absolutely critical—questions of the highest order: questions concerning the proper balance between the government’s power to address an urgent public health crisis and the most fundamental rights and freedoms known in our society—the freedom of conscience and religious worship, the freedom of speech and assembly, and the very freedom to leave one’s home and move about from place to place—rights that are expressly guaranteed by the Wisconsin Constitution. Again, it is nearly impossible to imagine a case raising legal questions of greater importance than these.2

The exercise of original jurisdiction is also warranted by the need for a “prompt and authoritative” determination by this Court of these exceptionally important questions. Citizens Utility Board v. Klauser, 194 Wis. 2d 484,

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2 See Panzer v. Doyle, 2004 WI 52, ¶2, 271 Wis. 2d 295, 680 N.W.2d 666 (“The supreme court hears original actions in cases that involve substantial legal questions or more than ordinary importance to the people of the state.”), abrogated on other grounds by Dairyland Greyhound Park, Inc. v. Doyle, 2006 WI 107, 295 Wis. 2d 1, 719 N.W.2d 408; State ex rel. Ozanne v. Fitzgerald, 2011 WI 43, ¶7, 334 Wis. 2d 70, 798 N.W.2d 436 (exercising original jurisdiction in cases involving important separation of powers questions); Lightbourn, 243 Wis. 2d at 528 (exercising jurisdiction in case raising constitutional challenge to pension statute); Joni B. v. State, 202 Wis. 2d 1, 549 N.W.2d 411 (1996) (exercising jurisdiction in case raising due process and separation of powers challenge to statute).
488 n.1, 534 N.W.2d 608 (1995); see also Petition of Heil, 230 Wis. 428, 284 N.W. 42, 50 (1938) (exercise of original jurisdiction appropriate when “the questions presented are of such importance as under the circumstances to call for a[ ] speedy and authoritative determination by this court in the first instance”). The Executive Branch’s restrictions are having a profound, devastating, and continuing impact on almost every aspect of the daily lives and activities of everyone in the State, and are infringing Petitioners’ constitutional rights and freedoms each and every day. Petitioners (and virtually every other citizen) are thus suffering irreparable injury for every day that those restrictions are allowed to stay in place. If there is ever to be an authoritative ruling by this Court assessing the constitutionality of those restrictions, and if further irreparable harm to Petitioners is to be prevented, the Court needs to act now—not months from now, after the irreparable harm the citizenry’s constitutional freedoms is compounded as the case winds its way up through the state judicial system.

Finally, while the exercise of original jurisdiction would be appropriate in any event given the above considerations, it is particularly warranted in light of the already pending challenge to EO 28 (No. 2020AP765-OA) filed by the Wisconsin Legislature. For the same reasons that the Court has
exercised its jurisdiction to resolve the statutory challenges to the Order raised by the Legislature, it should also utilize that procedure to resolve Petitioners’ constitutional challenges on a parallel course.

**CONCLUSION**

For the foregoing reasons, and as discussed more fully in Petitioners’ accompanying memorandum, Petitioners respectfully request that the Court grant this emergency petition.
Dated: May 4, 2020

Respectfully submitted,

[Signature]

Matthew M. Fernholz  
_Counsel of Record_  
CRAMER, MULTHAUF, & HAMMES, LLP  
1601 East Racine Ave., Ste. 200  
P.O. Box 558  
Waukesha, WI 51387  
(262) 542-4278  
(262) 542-4270 (Fax)  
mmf@cmhlaw.com

Charles J. Cooper*  
Adam P. Laxalt*  
Vincent J. Colatiano*  
Harold S. Reeves*  
John D. Ohlendorf*  
COOPER & KIRK, PLLC  
1523 New Hampshire Ave., NW  
Washington, DC 20036  
(202) 220-9600  
(202) 220-9601 (Fax)  
ccooper@cooperkirk.com

Counsel for Petitioners

*Applications to appear _pro hac vice_ forthcoming
CERTIFICATE OF SERVICE

A copy of this petition is being served upon all parties via e-mail and first-class mail.

Dated: May 4, 2020

Matthew M. Fernholz
Counsel of Record
Cramer, Multhauf, & Hammes, LLP
1601 East Racine Ave.,
Ste. 200
P.O. Box 558
Waukesha, WI 51387
(262) 542-4278
(262) 542-4270 (Fax)
mmf@cmhlaw.com