1. July 20, 2020 Executive Committee Agenda

   Documents:

   JULY 20, 2020 EXECUTIVE COMMITTEE MEETING AGENDA.PDF

2. July 20, 2020 Executive Committee Meeting Packet

   Documents:

   JULY 20, 2020 EXECUTIVE COMMITTEE MEETING PACKET.PDF
County Board Executive Committee
MEETING NOTICE
Monday, July 20, 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 may be limited to
help ensure appropriate social distancing is observed. ALL INDIVIDUALS ARE STRONGLY
ENCOURAGED TO WATCH THE MEETING STREAMING LIVE AT
https://mediasite.co.walworth.wi.us/Mediasite/Play/100fa8ba3a54c47b00e2a385a53a9381d.

Individuals wanting to provide a Public Comment can do so remotely by telephone, but must contact the
County Administrator’s Office 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.

(Posted in compliance with Sec. 19.84 Wis. Stats.)

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.

AGENDA

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) June 15, 2020 Executive Committee Meeting (pp. 3-5)

6. Public Comment Period

7. Consent Items – expense/mileage reimbursement claims submitted by:
a) Anna Seaver, citizen representative on Board of Adjustment, in the amount of $71.02 (pp. 6-7)
b) Rick Stacey, County Board Supervisor, in the amount of $15.87 (p. 8)

8. Unfinished business
   a) Correspondence from County Board Vice Chair Jerry Grant regarding County Board election years, including consideration of as to the size of the County Board (pp. 9-20)
   b) Proposed Ordinance regarding Naming Public Real Property (pp. 21-24)
   c) Correspondence from County Board Vice Chair Jerry Grant in regards to requiring committee citizen members be residents of Walworth County, including draft proposed ordinance (pp. 25-28)

9. New business
   a) Correspondence from the Chicago Regional Census Center regarding Census Outreach to Wisconsin Counties (pp. 29-31)

10. Reports/announcements by Chairperson

11. Set/confirm next meeting date and time – Monday, September 14, 2020 at 10:00 a.m.

12. 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) Claim for Vehicle Damage – Natasha Zwijacz (pp. 32-36)
   b) Claim for Vehicle Damage – Damoned Brown, Sr. (pp. 37-41)
   c) Notice of Injury Pursuant to Wis. Stat. § 893.80(1)(a) – WSPR Enterprises, LLC (pp. 42-48)
   d) Complaint and Jury Demand – Dangelo Lux (pp. 49-65)

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

13. Adjournment

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

Posted: July 16, 2020
Memorandum

To: Walworth County Executive Committee

From: Mark W. Luberda, County Administrator

Date: July 16, 2020

RE: July 20, 2020 Executive Committee Meeting

Consent Items. Expense and mileage reimbursement claims submitted by County Board Supervisor Rick Stacey and Anna Seaver, citizen member on Board of Adjustment, are included on the agenda for approval.

Unfinished Business

Correspondence from County Board Vice Chair Jerry Grant regarding County Board election years, including consideration as to the size of the County Board. Enclosed in your packet is the correspondence from Vice Chair Grant, as well as a legal opinion from Corporation Counsel Michael Cotter, election information from County Clerk Kim Bushey, and data from the WCA as to the size of County Boards statewide.

Proposed Ordinance regarding Naming Public Real Property. Recall that this topic was laid-over from the April meeting to provide County Board members time to review the proposed ordinance, which is included in your packet. This ordinance was specifically laid over to the July Executive Committee meeting to ensure all Supervisors have the opportunity to weigh in on this topic at the Committee level prior to its possible consideration at the full County Board level.

This Ordinance stems from a proposed resolution considered by the Executive Committee in November 2019 and March 2020 entitled “Authorizing the Naming of the Walworth County Government Center as the David A. Bretl Government Center.” The discussion on that resolution concluded that establishing a broader ordinance on the naming of public real property should occur first before renaming the Government Center was considered. As such, the proposed ordinance covers all “public real property,” which is defined as public buildings, parks, opens spaces, and lands owned by Walworth County, including related facilities, whether considered in whole or in part. With this broader definition, it would also allow, for example, the County Board room to subsequently be named in Dave Bretl’s honor, which was one of the alternative discussion points previously considered by the Executive Committee. Naturally, the ordinance provides the necessary deference to any statutory limitations on naming of real property.

The County did have an ordinance related to naming Parks, but the County has not had such a broad ordinance in the past. It is not uncommon at all for local governments to establish such parameters or internal guidance on the naming of real property. The ordinance provides structure for a process that can otherwise often be primarily an emotional consideration with potential cost implications.
Correspondence from County Board Vice Chair Grant in regards to requiring committee citizen members be residents of Walworth County, including draft proposed ordinance. Enclosed in your packet is a draft proposed ordinance that has been prepared per the direction of this committee at last month’s meeting. Also attached is a copy of the current Section 2-238 of the Code of Ordinances so that the proposed modification can be seen in context.

New Business
Correspondence from the Chicago Regional Census Center regarding Census Outreach Wisconsin Counties. Enclosed in your packet is a recent snapshot of the current Census response rate in Walworth County. Census Partnership Specialist Patti Gillette will be joining our meeting to discuss outreach to promote the Census.

Claims and litigation. Your agenda includes four (4) claim matters for discussion in closed session.

Please call with any questions you may have.

MWL/sr
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, Vice Chair Daniel Kilkenny, Supervisors Brian Holt, Susan Pruessing and Nancy Russell. A quorum was declared.

**Others in Attendance**

**County Board Supervisors:** Kathy Ingersoll, Ryan Simons, and Rick Stacey  
**County staff:** County Administrator Mark W. Luberda; Corporation Counsel/Director of Land Use and Resource Management (LURM) Michael Cotter; Finance Director Jessica Conley; Geographic Information Systems (GIS) Supervisor/Land Information Officer Dale Drayna; Information Technology Director John Orr; Director of Health & Human Services Elizabeth Aldred; and County Clerk Kimberly Bushey  
**Members of the Public:** Jim Van Dreser

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

On motion by Supervisor Pruessing, second by Supervisor Holt, the minutes of the May 18, 2020 Executive Committee Meeting were approved.

**Public Comment** – There was none.

**Consent Items** – expense/mileage reimbursement claims submitted by:  
   a) Rick Stacey, County Board Supervisor, in the amount of $47.61  
   b) Anna Seaver, citizen member on Board of Adjustment, in the amount of $32.66

**Supervisor Russell offered a motion, second by Supervisor Holt, to approve the expense/mileage reimbursement claims for Rick Stacey in the amount of $47.61 and Anna Seaver in the amount of $32.66. Motion carried 5-0.**

**Appointments. Recommendations regarding County Administrator’s nominations:**

- Aging and Disability Resource Center (ADRC) Governing Board – appointment of Terrence Dignan, Laura Berg, and Kit Deubel  
- County Zoning Agency – appointment of Richard Kuhnke, Sr. and Jim Van Dreser  
- Elkhorn Matheson Memorial Library Board – appointment of Debbie Adams  
- Wisconsin River Rail Transit Commission – appointment of Richard Kuhnke, Sr.

County Administrator Mark W. Luberda requested the appointment of Kit Deubel be laid over to the next Executive Committee meeting, as the Administrative Office has not received confirmation that Ms. Deubel has personally signed the Notice of Intent to Serve.

**Supervisor Holt offered a motion, second by Supervisor Pruessing, to approve the appointment of Terrence Dignan to the Aging and Disability Resource Center (ADRC) Governing Board. Motion carried 5-0.**

**Supervisor Holt offered a motion, second by Supervisor Russell, to approve the appointment of Laura Berg to the Aging and Disability Resource Center (ADRC) Governing Board. Motion carried 5-0.**
Chair Weber asked Mr. Van Dreser a series of questions regarding his qualifications, experience, desire to serve on the County Zoning Agency, and whether he had any conflicts of interest that would prohibit him from serving. Supervisor Pruessing offered a motion, second by Supervisor Russell, to approve the appointment of Jim Van Dreser to the County Zoning Agency. Motion carried 5-0.

Administrator Luberda stated Richard Kuhnke, Sr. was invited to attend the meeting and suggested his interview and appointment be laid over to the next Executive Committee meeting, since he was not present.

Supervisor Pruessing offered a motion, second by Supervisor Holt, to approve the appointment of Debbie Adams to the Elkhorn Matheson Memorial Library Board. Motion carried 5-0.

Supervisor Russell offered a motion, second by Supervisor Pruessing, to approve Richard Kuhnke, Sr. to the Wisconsin River Rail Transit Commission. Motion carried 5-0.

**New Business**

- Correspondence from County Clerk Kimberly Bushey regarding the upcoming redistricting process/timeline including Res. No. 50-09/09 – Requesting the Southeastern Wisconsin Regional Planning Commission (SEWRPC) to Prepare a Redistricting Plan for Walworth County Following the 2010 United States Census. County Clerk Kimberly Bushey briefly explained the purpose of her email and Res. No. 50-09/09. Bushey’s intent was to notify Administrator Luberda and County Board Chair Russell that in 2009 the Executive Committee discussed the process that should be taken relative to redistricting due to the 2010 United States Census, which resulted in Res. No. 50-09/09 – Requesting the Southeastern Wisconsin Regional Planning Commission (SEWRPC) to Prepare a Redistricting Plan for Walworth County Following the 2010 United Census. Bushey said once the 2020 census numbers are finalized, there will be a short time frame to create the redistricting and now is the time to discuss how the Executive Committee would like to handle the process. Discussion then focused on the information that will be provided by the 2020 United State Census; parameters and rules that need to be complied with when setting up the districts, how the districts are demographically similar, and what the communities of interest are that must be protected. Supervisor Russell and Corporation Counsel/Director of Land Use and Resource Management (LURM) Michael Cotter recommended creating and passing a similar resolution allowing SEWRPC to prepare a redistricting plan and to draw up a contract if necessary. Cotter stated the County Board of Supervisors will set the redistricting parameters and briefly explained the process. **Supervisor Russell offered a motion, second by Vice Chair Kilkenny, to request a resolution similar to Res. No. 50-09/09 be prepared with the correct dates and for it to be sent to the County Board for approval, as soon as possible, so that SEWRPC can incorporate this into their work schedule.** County Administrator Mark W. Luberda recommended moving forward with SEWRPC and stated the Deputy Director of SEWRPC has indicated their interest in preparing a redistricting plan. Luberda will work with SEWRPC to create a timeline and contract, if required. Vice Chair Kilkenny inquired as to a potential increase of County Board Supervisors, which would impact the way districts are defined. Bushey said criteria of increasing the County Board could be given to SEWRPC. **Motion carried 5-0.**

- Correspondence from County Board Vice Chair Jerry Grant in regards to requiring committee citizen members be residents of Walworth County

County Board Vice Chair Jerry Grant briefly explained the purpose of his correspondence and stated he believes a citizen member candidate should either be a resident or employed in Walworth County to be eligible to serve on the Wisconsin River Rail Transit Commission or any other committee/board. Discussion then focused on the difficulties that may arise either when trying to fill a vacancy or when a highly qualified candidate may be disqualified from serving because they are neither a resident nor employed by Walworth County. Supervisor Russell agreed with Grant and believes it is important for a citizen member to have a vested interest in the County. Vice Chair Kilkenny suggested inserting a preference clause in the ordinance for an applicant to either reside or work in Walworth County. Supervisor Holt suggested setting the requirement as a baseline for an applicant and then allowing a vote to be taken due to an extraordinary measure. Administrator Luberda briefly summarized the committee’s options. **Supervisor Holt offered a motion, second by Supervisor Russell, to adopt the language of “preference” into our appointees for citizen members of committees with notification to the Board if for**
some reason they do not live or work in Walworth County. Motion carried 5-0. The Executive Committee asked Luberda to draft the proposed ordinance; review the application questionnaire to make certain it includes the question “Do you work or live in Walworth County”; and to bring the proposed ordinance back to the Executive Committee for review.

Reports/announcements by Chairperson – There was none.

Confirmation of next meeting date and time: The next meeting was confirmed for Monday, July 20, 2020 at 10:00 a.m.

Adjournment

On motion and second by Vice Chair Kilkenny and Supervisor Russell, Chair Weber adjourned the meeting at 10:40 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.
<table>
<thead>
<tr>
<th>Date of Expense</th>
<th>Description</th>
<th>Destination / Location</th>
<th>Mileage</th>
<th>Parking &amp; Fuel</th>
<th>Lodging</th>
<th>Breakfast</th>
<th>Lunch</th>
<th>Dinner</th>
<th>*Depart Time from Wal Cty OR Home</th>
<th>*Return Time to Wal Cty OR Home</th>
<th>Overnight stay Y/N</th>
<th>Misc Exp</th>
<th>Total Non-Mileage</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-3-20</td>
<td>V. see Prep for BOA B</td>
<td>65828 N. D. 17.4</td>
<td>12:40</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6-3-20</td>
<td>V. see Prep for BOA B</td>
<td>7536 Syr 1 31.0</td>
<td>21:05</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6-3-20</td>
<td>To Home</td>
<td></td>
<td>17.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>-</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* TIME NEEDED IF CLAIMING MEALS/LODGING

**Note:** Please attach all receipts to a separate 8 1/2 X 11 piece of paper.

**Claimant's Statement:** I declare, under penalties of perjury, that this account of expenses is true and correct in conformity with applicable county policies, related travel schedules and instructions. This claim represents reasonable and actual expenses necessarily incurred by me personally in performance of my official duties and no portion of this claim was provided free of charge or covered by my registration fee, or previously reimbursed to me by the County or any other source.

**Supervisor's Statement:** I certify that I have reviewed this expense claim and find it to be reasonable and in compliance with established policy and the mission of the department.

**Signature:** Shannon K. Hayden 6-18-20

**Date:**

**Print Supervisor's Name:**

**Non-Mileage:** 53325

**Mileage ($0.575):** 53310

**Total Travel Expense:** $71.4

**Less Advances:**

**Total Reimbursement:** $41.52

**Account:**

- **Acct#:** 1330 53310
  - **S**

Revised: 01/10/2020

Business Expense Reimbursement

Page 6 of 65
### Form 1-651-A: 2017 BUSINESS EXPENSE

**REIMBURSEMENT FORM**

**By my signature of this form, I certify that I have a valid driver's license and required vehicle liability insurance, available upon request.**

<table>
<thead>
<tr>
<th>Date of Expense</th>
<th>Description</th>
<th>Destination / Location</th>
<th>Mileage</th>
<th>Parking or Fuel</th>
<th>Lodging</th>
<th>Breakfast</th>
<th>Lunch</th>
<th>Dinner</th>
<th><em>Depart Time from Wal City OR Home</em></th>
<th><em>Return Time to Wal City OR Home</em></th>
<th>Overnight stay Y/N</th>
<th>Misc Exp</th>
<th>Total Non-Mileage</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/29-30</td>
<td>Vizcaya Property et</td>
<td>13.1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>11:27</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>20451 N 3rd St</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL MILEAGE** 51.3 0.00 0.00

**TIME NEEDED IF CLAIMING MEALS/LODGING**

*Note: Please attach all receipts to a separate 8 1/2 X 11 piece of paper*

**Claimant's Statement:** I declare, under penalties of perjury, that this account of expenses is true and correct in conformity with applicable county policies, related travel schedules and instructions. This claim represents reasonable and actual expenses necessarily incurred by me personally in performance of my official duties and no portion of this claim was provided free of charge or covered by my registration fee, or previously reimbursed to me by the County or any other source.

**Supervisor's Statement:** I certify that I have reviewed this expense claim and find it to be reasonable and in compliance with established policy and the mission of the department.

**Claimant's Signature**

**Supervisor's Signature**

**Print Supervisor's Name**

**Non-Mileage**

- 53325

**Mileage**

- 53310 20.50

**Total Travel Expense**

- Less Advances

- **Total Reimbursement**

- 1530 53310 $29.50

**Acc#**

- S

**Acc#**

- S

**Acc#**

- S

**Date**

- 7-7-2020

- 7/12/20

-
# 2020 BUSINESS EXPENSE

## REIMBURSEMENT FORM

By my signature of this form, I certify that I have a valid driver's license and required vehicle liability insurance, available upon request.

<table>
<thead>
<tr>
<th>Date of Expense</th>
<th>Description</th>
<th>Destination / Location</th>
<th>Mileage</th>
<th>Parking &amp; Tolls</th>
<th>Lodging</th>
<th>Breakfast</th>
<th>Lunch</th>
<th>Dinner</th>
<th>*Depart Time from Wal Cty OR Home</th>
<th>*Return Time to Wal Cty OR Home</th>
<th>Overnight stay Y / N</th>
<th>Misc Exp</th>
<th>Total Non-Mileage</th>
</tr>
</thead>
<tbody>
<tr>
<td>07/13/20</td>
<td>Government Center - sign zoning plans (round trip from home)</td>
<td>100 W. Walworth St., Elkhorn</td>
<td>27.6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL MILEAGE:** 27.6  0.00  **TOTAL PARKING**

---

### *TIME NEEDED IF CLAIMING MEALS/LODGING*

**Note:** Please attach all receipts to a separate 8 1/2 X 11 piece of paper.

Claimant's Statement: I declare, under penalties of perjury, that this account of expenses is true and correct in conformity with applicable county policies, related travel schedules and instructions. This claim represents reasonable and actual expenses necessarily incurred by me personally in performance of my official duties and no portion of this claim was provided free of charge or covered by any registration fee, or previously reimbursed to me by the County or any other source.

Claimant's Signature  Date  7-13-2020

Supervisor's Statement: I certify that I have reviewed this expense claim and find it to be reasonable and in compliance with established policy and the mission of the department.

Supervisor's Signature  Date

---

### General Notes:

<table>
<thead>
<tr>
<th>Acct#</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1010-51650</td>
<td>$15.87</td>
</tr>
<tr>
<td>$</td>
<td></td>
</tr>
<tr>
<td>$</td>
<td></td>
</tr>
<tr>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>
September 19, 2019

Walworth County Board of Supervisors

Re: County Board Election Years

Dear Supervisors,

I am requesting a resolution be brought to the attention of the full Walworth County Board of Supervisors.

Based on the fact that every time I read the newspapers, or listen to the news, I feel this country is in a state of political unrest. It seems to me both the Republican and Democratic parties want to obtain control of our government, both National and State. I believe the politicians in office have forgotten the needs of the taxpayers.

Because of coming changes, (the retirement of our County Administrator), Walworth County is in need of another change. Each time while taking the Oath of Office, as a County Board Supervisor, I become concerned, as the full Board is involved. This can be changed and I believe it should be.

I believe we need to protect our employees, especially the Department Heads, as well as the taxpayers of Walworth County. Each time I thought, what if the entire Board was replaced at once. This could happen. Even though our position is to be non-partisan, there is nothing to prevent politics from entering into these positions. There is a way to at least keep it under control if not prevent it from happening.

State Law allows for alternate elections of County Board Members. The odd numbered districts would be elected during the odd years and the even numbered districts would be elected during the even years. Yes, the Board members of odd numbered districts would have to run two years in a row, but this would be a one-time event.

I believe this would benefit and protect Walworth County in the future making this is a necessary change to make.

Sincerely,

Jerry Grant
County Board Vice Chair-Supervisor District 4
JG/eh
SUBCHAPTER III

COUNTY BOARD OF SUPERVISORS

59.10 Boards: composition; election; terms; compensation; compatibility. The boards of the several counties shall be composed of representatives from within the county who are elected and compensated as provided in this section. Each board shall act under sub. (2), (3) or (5), unless the board enacts an ordinance, by a majority vote of the entire membership, to act under sub. (1). If a board enacts such ordinance, a certified copy shall be filed with the secretary of state.

(1) SELF-ORGANIZED COUNTIES. (a) Number of supervisors and apportionment of supervisory districts. In each county with a population of at least 750,000, sub. (2) (a) and (b) applies. In counties with a population of less than 750,000 and more than one town, sub. (3) (a) to (c) applies. In counties with one town only, sub. (5) applies.

(b) Terms. The term of office of supervisors is 2 years. A board may determine whether the terms shall be concurrent or staggered. Supervisors shall be elected at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms and shall take office on the 3rd Tuesday in April following their election. If the board determines that supervisors
shall serve staggered terms, the board shall, by ordinance, provide for a division of supervisors into 2 classes, one class to be elected for one-half of a full term and the other class for a full term and thereafter the supervisors shall be elected for a full term. The board shall publish the ordinance as a class 1 notice, under ch. 985, or as a notice, as described under s. 59.14 (1m) (b), before publication of the notice of the election at which supervisors are to be elected.

(c) Compensation. The method of compensation for supervisors shall be determined by the board.

(d) Vacancies. A board may determine the procedure for filling a vacancy.

(2) MILWAUKEE COUNTY. In each county with a population of at least 750,000:

(a) Composition; supervisory districts. Within 60 days after the population count by census block, established in the decennial federal census of population, and maps showing the location and numbering of census blocks become available in printed form from the federal government or are published for distribution by an agency of this state, but no later than July 1 following the year of the decennial census, the board shall adopt and transmit the governing body of each city and village wholly or partially contained within the county a tentative county supervisory district plan to be considered by the cities and villages when dividing into wards. The tentative plan shall specify the number of supervisors to be elected and shall divide the county into a number of districts equal to the number of supervisors, with each district substantially equal in population and consisting of contiguous whole wards or municipalities, except as authorized in sub. (3) (b) 2. Except as otherwise provided in this paragraph, the board shall develop and adopt the tentative plan in accordance with sub. (3) (b) 1. The tentative plan shall not include provision for division of any census block, as utilized by the U.S. bureau of the census in the most recent federal decennial census, unless the block is bisected by a municipal boundary or unless a division is required to enable creation of supervisory districts that are substantially equal in population. The board shall adopt a final plan by enacting an ordinance in accordance with sub. (3) (b) 2. to 4. Changes to the final plan shall be governed by par. (d) and sub. (3) (c).

(b) Election; term. For an election that is held before 2016, supervisors shall be elected for 4-year terms at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms, and shall take office on the 3rd Monday in April following their election. For an election that is held in 2016 and thereafter, supervisors shall be elected for 2-year terms at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms, and shall take office on the 3rd Monday in April following their election.

(c) Compensation. Each supervisor shall be paid by the county an annual salary set by the board. The board may provide additional compensation for the chairperson, such that his or her salary may be an amount of up to 150 percent of the salary of a supervisor, and for the chairperson of the board’s finance committee, such that his or her salary may be an amount of up to 125 percent of the salary of a supervisor. Beginning with the term that commences in April 2016, the total dollar value of the annual salary and benefits that may be paid to a supervisor, other than the board chairperson and finance committee chairperson, may not exceed the annual per capita income of Milwaukee County as most recently determined by the U.S. bureau of the census and may be increased for a new term as provided in subds. 2. and 3. subject to the limit specified in subd. 4. Section 66.0505 applies to this paragraph.

(3) OTHER COUNTIES. (a) Classification; maximum number of supervisors. Counties with a population of less than 750,000 and more than one town are classified and entitled to a maximum number of supervisors as follows:

1. Counties with a population of less than 750,000 but at least 100,000 shall have no more than 47 supervisors.

2. Counties with a population of less than 100,000 but at least 50,000 shall have no more than 39 supervisors.

3. Counties with a population of less than 50,000 but at least 25,000 shall have no more than 31 supervisors.

4. Counties with a population of less than 25,000 and containing more than one town shall have no more than 21 supervisors.

5. If the population of any county is within 2 percent of the minimum population for the next most populous grouping under this paragraph, the board thereof, in establishing supervisory districts, may employ the maximum number for such districts set for such next most populous grouping.

(b) Creation of supervisory districts. Within 60 days after the population count by census block, established in the decennial federal census of population, and maps showing the location and
COUNTIES

numbering of census blocks become available in printed form from the federal government or are published for distribution by an agency of this state, but no later than July 1 following the year of each decennial census, each board shall propose a tentative county supervisory district plan setting forth the number of supervisory districts proposed by the board and tentative boundaries or a description of boundary requirements, hold a public hearing on the proposed plan and adopt a tentative plan. The proposed plan may be amended after the public hearing. The tentative plan shall divide the county into a number of districts equal to the number of supervisors, with each district substantially equal in population. The board shall solicit suggestions from municipalities concerning the development of an appropriate plan. Except as authorized in this subdivision, each district shall consist of whole wards or municipalities. Territory within each supervisory district to be created under the tentative plan shall be contiguous, except as authorized in subd. 2. In the tentative plan, the board shall, whenever possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. If the division of a municipality is sought by the board, the board shall provide with the plan a written statement to the municipality affected by each proposed division specifying the approximate location and territory from which a ward is sought to be created for contiguity purposes and the approximate population of the ward proposed to effectuate the division. The tentative plan shall not include provision for division of any census block unless the block is bisected by a municipal boundary or unless a division is required to enable creation of supervisory districts that are substantially equal in population. The board shall transmit a copy of the tentative plan that is adopted to each municipal governing body in the county.

2. Within 60 days after every municipality in the county adjusts its wards under s. 5.15, the board shall hold a public hearing and shall then adopt a final supervisory district plan, numbering each district. Territory within each supervisory district created by the plan shall be contiguous, except that one or more wards located within a city or village which is wholly surrounded by another city or water, or both, may be combined with one or more noncontiguous wards, or one or more wards consisting of island territory as defined in s. 5.15 (2) (f) 3. may be combined with one or more noncontiguous wards within the same municipality, to form a supervisory district.

3. The populations of supervisory districts under the tentative plan shall be determined on the basis of the federal decennial census and any official corrections to the census issued on or before the date that the tentative plan is adopted to reflect the correct population of the county and municipalities and blocks within the county on April 1 of the year of the census. The populations of supervisory districts under the final plan shall be determined on the basis of the federal decennial census and any official corrections to the census to reflect the correct populations of the county and the municipalities and blocks within the county on April 1 of the year of the census, if the corrections as they affect any municipality are issued prior to division of the municipalities into wards under s. 5.15, or if a municipality is not divided into wards, prior to adoption of the final plan.

4. The chairperson of the board shall file a certified copy of the final districting plan with the secretary of state. Unless otherwise ordered under sub. (6), a plan enacted and filed under this paragraph, together with any authorized amendment that is enacted and filed under this section, remains in effect until the plan is superseded by a subsequent plan enacted under this subsection and a certified copy of that plan is filed with the secretary of state.

(c) Changes during decade; municipal boundary adjustments.

1. After the enactment of a plan of supervisory election under par. (b), the board may amend the plan to reflect a municipal incorporation, annexation, detachment or consolidation. The number of supervisory districts in the county shall not be changed by any action under this subdivision.

2. Within 60 days after enactment or adoption of a revised division ordinance or resolution under s. 5.15 (4) (a), the board shall amend the county supervisory district plan under par. (b) to reflect any renumbering of the wards specified in the plan.

3. The districts under the amended plan shall be substantially equal in population according to the most recent countywide federal census and shall be in as compact a form as possible. The board shall adhere to the requirements of par. (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In the amended plan, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. An amended plan becomes effective on the first November 15 following its enactment.

4. The chairperson of the board shall file a certified copy of any amended plan under this paragraph with the secretary of state.

(cm) Changes during decade; reduction in size.

1. 'Number of supervisors; redistricting.' Except as provided in subd. 3., following the enactment of a decennial supervisory district plan under par. (b), the board may decrease the number of supervisors. In that case, the board shall redistrict, readjust, and change the boundaries of supervisory districts, so that the number of districts equals the number of supervisors, the districts are substantially equal in population according to the most recent countywide federal census, the districts are in as compact a form as possible, and the districts consist of contiguous municipalities or contiguous wards in existence at the time at which the redistricting plan is adopted, except as authorized in par. (b) 1. In the redistricting plan, the board shall adhere to the requirements under par. (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In redistricting under this subdivision, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. No plan may be enacted under this subdivision during review of the sufficiency of a petition filed under subd. 2. nor after a referendum is scheduled on such a petition. However, if the board of the county rejects the change in the number of supervisory districts under subd. 2., the board may then take action under this subdivision except as provided in subd. 3. The county clerk shall file a certified copy of any redistricting plan enacted under this subdivision with the secretary of state.

2. 'Petition and referendum.' Except as provided in subd. 3., the petitioners of a county may, by petition and referendum, decrease the number of supervisors at any time after the first election is held following enactment of a decennial supervisory district plan under par. (b). A petition for a change in the number of supervisors may be filed with the county clerk. Prior to circulating a petition to decrease the number of supervisors in any county, a petitioner shall register with the county clerk, giving the petitioner's name and address and indicating the petitioner's intent to file such a petition. No signature on a petition is valid unless the signature is obtained within the 60-day period following such registration. The petition shall specify the proposed number of supervisors to be elected. Within 14 days after the last day for filing an original petition, any other petitioner may file an alternative petition with the county clerk proposing a different number of supervisors to be elected, and, if the petition is valid, the alternative petition in the petition shall be submitted for approval at the same referendum. An alternative petition is subject to the same registration and signature requirements as an original petition. Each petition shall be in the form specified in s. 8.40 and shall contain a number of signatures of electors of the county equal to at least 25 percent of the total votes cast in the county for the office of supervisor at the most recent election preceding the date the petition is filed. If the county clerk shall promptly determine the sufficiency of a petition filed under this subdivision. Upon determination that a petition is sufficient, or if one or more valid alternative petitions are filed, upon determination that the petitions are sufficient, the county clerk...
shall call a referendum concurrently with the next spring or general election in the county that is held not earlier than 70 days after the determination is made. The question proposed at the referendum shall be: "Shall the board of supervisors of ... County be decreased from ... members to ... members?". If one or more alternative valid petitions are filed within 14 days after the last day that an original petition may be filed, the question relating to the number of supervisors shall appear separately. The first question shall be: "Shall the size of the county board of supervisors of ..., County be decreased from its current membership of ... members?". Any subsequent question shall be: "If so, shall the size of the board be decreased to ... members?". Each elector may vote in the affirmative or negative on the first question and may then vote in the affirmative on one of the remaining questions. If the first question is not approved by a majority of the electors voting on the question, any subsequent question is of no effect. If the question is approved by a majority of the electors voting on the question, or, if more than one question is submitted, if the first question is approved by a majority of the electors voting on the question, the board shall enact an ordinance prescribing revised boundaries for the supervisory districts in the county. The ordinance shall be enacted in accordance with the approved question or, if more than one question is submitted, in accordance with the choice receiving a plurality of the votes cast. The districts are subject to the same requirements that apply to districts in any plan enacted by the board under subd. 1. If the board has determined under subd. (b) to adopt staggered terms for the office of supervisor, the board may change the expiration date of the term of any supervisor to an earlier date than the date provided under current ordinance if required to implement the redistricting or to maintain classes of members. The county clerk shall file a certified copy of any redistricting plan enacted under this subdivision with the secretary of state.

3. 'Limitation.' If the number of supervisors in a county is decreased by the board or by petition under this paragraph, no further elections shall be taken by the board or by petition under this paragraph in that county until after enactment of the next decennial supervisory district plan by the board under par. (b).

4. 'Election; term.' Any redistricting plan enacted under subd. 1. takes effect on November 15 following its enactment and first applies to the election of supervisors at the next spring election following the effective date that immediately precedes the expiration of the terms of office of supervisors in the county. Any reduction in the number of supervisory districts under subd. 2. shall not be removed at a spring election shall be enacted in the form of a redistricting plan no later than November 15 following that election and shall first apply to the election of supervisors at the next spring election immediately preceding the expiration of the terms of office of supervisors in the county, and any reduction in the number of supervisory districts under subd. 2. that is approved at a general election shall be enacted in the form of a redistricting plan no later than the 2nd succeeding November 15 following that election and shall first apply to the election of supervisors at the next spring election following that November 15 immediately preceding the expiration of the terms of office of supervisors in the county. Any redistricting plan enacted under subd. 1. or 2. shall remain in effect until the effective date of any subsequent redistricting plan enacted under subd. (c) or until the effective date of a redistricting plan subsequently enacted under par. (b). Supervisors elected from the districts created under subd. 1. or 2. shall serve for 2-year terms and shall take office on the 3rd Tuesday in April following their election.

(d) Election and term of supervisors. Supervisors are county officers, shall be elected for 2-year terms at the election to be held on the first Tuesday in April in even-numbered years and shall take office on the 3rd Tuesday in April of that year.

(e) Vacancies. If a vacancy occurs on the board, the board chairperson, with the approval of the board, shall appoint a person who is a qualified elector and resident of the supervisory district to fill the vacancy. The successor shall serve for the unexpired portion of the term to which the person is appointed, unless the board orders a special election to fill the vacancy, in which case the person appointed shall serve until his or her successor is elected and qualified. The board may, if a vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to fill the vacancy. If the board orders a special election during the period beginning on June 1 and ending on November 30 of any year, the special election shall be held concurrently with the succeeding spring election. If the board orders a special election during the period beginning on December 1 and ending on May 31 of the succeeding year, the special election shall be held on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

(f) Compensation. Each supervisor shall be paid a per diem by the county for each day that he or she attends a meeting of the board. Any board may, at its annual meeting, by a two-thirds vote of all the members, fix the compensation of the board members to be next elected. Any board may also provide additional compensation for the chairperson.

(g) Mileage. Each supervisor shall, for each day that he or she attends a meeting of the board, receive mileage for each mile traveled in going to and returning from the meetings by the most usual traveled route at the rate established by the board under s. 59.22 as the standard mileage allowance for all county employees and officers.

(b) Limitation on compensation. Except for services as a member of a committee as provided in s. 59.13 no supervisor shall be paid for more days' attendance on the board in any year than is set out in this schedule: in counties having a population of less than 25,000, 20 days; at least 25,000 but less than 100,000, 25 days; at least 100,000 but less than 750,000, 30 days.

(i) Alternative compensation. As an alternative method of compensation, in counties having a population of less than 750,000, including counties containing only one town, the board may at its annual meeting, by a two-thirds vote of the members entitled to a seat, fix the compensation of the supervisors to be next elected at an annual salary for all services for the county including all committee services, except the per diem allowance for services in acquiring highway rights-of-way set forth in s. 84.09 (4). The board may, in like manner, allow additional salary for the members of the highway committee and for the chairperson of the board. In addition to the salary, the supervisors shall receive mileage as provided in par. (g) for each day's attendance at board meetings or for attendance at not to exceed 2 committee meetings in any one day.

(j) Supplementary compensation. The board, in establishing an annual salary, may enact an ordinance providing for a per diem for all committee meetings attended in excess of 40 committee and board meetings.

(4) Compatibility. No county officer or employee is eligible for election or appointment to the office of supervisor, but a supervisor may also be a member of a committee, board or commission appointed by the county executive or county administrator or appointed or created by the county board, a town board, a mosquito control district, the common council of his or her city, the board of trustees of his or her village or the board of trustees of a county institution appointed under s. 46.18.

(5) Counties having only one town. In all counties containing only one town, the board shall consist of the members of the town board and one supervisor from every village. A supervisor from a village shall be elected at the time the other village officers are elected. A majority of the members shall constitute a quorum of the county board. Each supervisor shall receive compensation and mileage as provided in sub. (3) (f) and (g). The chairperson of the board elected under s. 59.12 (1) may be, but need not be, the same person who is elected chairperson of the town board under s. 60.21 (3) (a).
59.10 COUNTIES

(6) ENFORCEMENT OF DIVISION REQUIREMENT. If a county fails to comply with sub. (2) (a) or (3) (b), any municipality located in whole or in part within the county or any elector of the county may submit to the circuit court for the county within 14 days from the expiration of either 60-day period under sub. (2) (a) or (3) (b) a proposed tentative supervisory district plan or a final plan for creating a supervisory district in compliance with this section. If the court finds that the existing division of the county into supervisory districts fails to comply with this section, it shall review the plan submitted by the petitioner and after reasonable notice to the county may promulgate the plan, or any other plan in compliance with this section, and the plan shall be in effect until superseded by a plan promulgated by the board in compliance with this section.


(7) Cross-reference: Sec. 17.21 (5) for provision as to filling vacancies on county boards or counties with 750,000 or more population.

Cross-reference: See s. 59.30 (1) for county supervisor residency requirements.

Cross-reference: Sec. 66.0505 for restrictions on changes in compensation of county board members.

Judicial relief is available if a county fails to follow the statutory requirements for redistricting.


The trial court properly voided a city's supervisory district plan and adopted the county's plan even though the county did not adopt the plan within 60 days of receiving the proposal required by sub. (3). County of La Crosse v. City of La Crosse, 108 Wis. 2d 560, 322 N.W.2d 531 (Ct. App. 1982).

Sub. (3) (a) does not establish a separate minimum for each class of county. County of Juneau v. County of Milwaukee, 183 Wis. 2d 277, 516 N.W.2d 106 (Ct. App. 1994).

A vacancy on a county board due to resignation may be filled by appointment by the county board chairperson when the board is not in session. 61 Atty. Gen. 1.

An inordinately large number of supervisors must resign before the county board chairperson can consider his or her appointment as highway commissioner. 61 Atty. Gen. 424.

A county supervisor board violation of s. 946.13 (6) if he is appointed as counsel for another state agency. 62 Atty. Gen. 62, 118.

Under sub. (3) (a) alteration of county supervisory district boundaries between decennial censuses is authorized only when ward boundaries originally relied upon in reapportioning the county have been subsequently altered by incorporation, annexation, detachment, or consolidation. 63 Atty. Gen. 544.

Section 59.06 (2) (int.) now s. 59.13 (3) (int.) does not prohibit payment of additional mileage under s. 59.03 (3) (g) now s. 59.10 (3) (g) 68 Atty. Gen. 73.

State law does not prohibit either discontinuation of all health insurance for county supervisors in self-organized counties during supervisors' terms of office or modest but involuntary increases in health insurance premiums for county supervisors in self-organized counties during supervisors' terms of office. OAG 5-11.

A tribal law enforcement officer who is an active duty deputy sheriff, but is not on the county's payroll, may serve as a county board supervisor. Under sub. (a), the office of county supervisor is incompatible with the office of active duty deputy sheriff. This office of county supervisor is not paid by the county. OAG 3-13.

The provision of health, dental, and life insurance and the payment of insurance premiums for county supervisors is not "compensation" under sub. (3). Thus the procedural requirements of that statute are inapplicable to motions or proposals to change those benefits. OAG 5-13.

59.11 Meetings; adjournment; absentees. (1) (a) Every board shall hold an annual meeting on the Tuesday after the 2nd Monday of November of each year for the purpose of transacting business. Any board may establish by rule an earlier date during October or November for the annual meeting and may by rule establish regular meeting dates throughout the year at which to transact general business. When the day of the meeting falls on November 11, the meeting shall be held on the next succeeding day.

(b) The annual meeting may be adjourned by the clerk, upon the written request of a majority of the supervisors, to a day designated in the request, but not less than one week nor more than 3 weeks from the Tuesday after the 2nd Monday of November. Upon such an adjournment being made, the clerk shall give each supervisor written notice of the time and place to which the annual meeting has been adjourned.

(c) The board, except in counties with a population of 750,000 or more, may meet on the 3rd Tuesday of each April to organize and transact business. At this meeting the board may transact any business permitted at the annual meeting, including the appointment of all county commissions and committees. The meeting may be adjourned in the same manner as the annual meeting.
Memorandum

To:       David Weber
           Chairman, Executive Committee
           Executive Committee Members

From:     Kimberly S. Bushey
           Walworth County Clerk

Date:     July 9, 2020

RE:       Requested Information Regarding Key Election and Redistricting
           Dates Pertinent to Consideration of County Board Staggered Terms

At the April 27, 2020 Executive Committee meeting, the committee considered
 correspondence from Vice Chair Jerry Grant regarding possible implementation of
 staggered terms for the County Board of Supervisors. The Executive Committee
 requested information regarding pertinent deadlines that could impact this discussion
 and information regarding the number of contested County Board seats over the past
 10 years.

Attached find two spreadsheets. The first is a timeline of key dates that drive the
 election process as well as key dates in the redistricting process. The second
 spreadsheet is a listing of the contested County Board seats and the outcome of these
 elections.

I hope this information is helpful. Please feel free to contact me with any questions
 regarding the attached material.

Attachments:
Cc:       Mark Luberda, County Administrator
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
<th>Type of Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/5/2022</td>
<td>Election Day</td>
<td>Election</td>
</tr>
<tr>
<td>12/1/2021</td>
<td>First Day to Circulate Nomination Papers</td>
<td>Election</td>
</tr>
<tr>
<td>Prior to</td>
<td>Prior to 12/1/2021 County Board to set the County Board Salary</td>
<td>Election</td>
</tr>
<tr>
<td>11/17/2021</td>
<td>Publish Type A Notice -WI Statutes 10.06 (2)(a)</td>
<td>Election</td>
</tr>
<tr>
<td>11/8/2021</td>
<td>Submit the Type A Notice for Publication in Newspapers</td>
<td>Election</td>
</tr>
<tr>
<td>10/21/2021</td>
<td>Final County Supervisory District Map Approved</td>
<td>Redistricting-Stage 3</td>
</tr>
<tr>
<td>08/**/2021</td>
<td>Municipalities Adjust Ward Boundaries Based on Preliminary Supervisory District Plans</td>
<td>Redistricting-Stage 2</td>
</tr>
<tr>
<td>06/**/2021</td>
<td>Counties provide County Supervisory District Plans to Municipalities</td>
<td>Redistricting</td>
</tr>
<tr>
<td>03/1 - 04/1/2021</td>
<td>Counties Adopt Tentative Supervisory Plans/Public Hearing</td>
<td>Redistricting-Stage 1</td>
</tr>
<tr>
<td></td>
<td>Public Law 94-171 Received and Published</td>
<td>Redistricting</td>
</tr>
</tbody>
</table>

- 4th Tuesday of November or if weekly paper the issue just prior.
- Notice lists the offices, terms of offices, deadlines circulating nomination papers.
- Must be completed within 60 days of Stage 2 and before October 21, 2020
- Municipalities have 60 days from completion Phase 1 to adjust their ward boundaries
- Must be enacted within 60 days of publication of 94-171 data and before July 1st
- Official Publication of Population Data for Wisconsin
<table>
<thead>
<tr>
<th>Year</th>
<th>Contested Seats</th>
<th>Outcome of Elections</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>2 Contested Seats</td>
<td>1 Incumbent re-elected, 1-Incumbent defeated</td>
</tr>
<tr>
<td>2012</td>
<td>4 Contested Seats</td>
<td>2-No incumbent, 2-Incumbents re-elected</td>
</tr>
<tr>
<td>2014</td>
<td>4 Contested Seats</td>
<td>1-No incumbent, 2-Incumbents re-elected, 1 Incumbent defeated</td>
</tr>
<tr>
<td>2016</td>
<td>4 Contested Seats</td>
<td>1-No incumbent, 2-Incumbents re-elected, 1 Incumbent defeated</td>
</tr>
<tr>
<td>2018</td>
<td>3 Contested Seats</td>
<td>2 Incumbents re-elected, 1 Incumbent defeated</td>
</tr>
<tr>
<td>2020</td>
<td>6 Contested Seats</td>
<td>3-incumbents re-elected, 3 incumbents defeated</td>
</tr>
</tbody>
</table>
Memorandum

To: Mark W. Luberda, Walworth County Administrator
cc: Executive Committee
From: Michael P. Cotter, Corporation Counsel
Date: July 9, 2020
Re: Legal Opinion - Staggered Terms of County Board Supervisors

On July 8, 2020, Mr. Luberda requested a legal opinion related to the necessary statutory procedures to change the term of office for county board supervisors to staggered terms.

The Wisconsin Statutes address terms of office for a self-organized county at § 59.10(1)(b):

59.10(1)(b) Terms. The term of office of supervisors is 2 years. A board may determine whether the terms shall be concurrent or staggered. Supervisors shall be elected at the election to be held on the first Tuesday in April next preceding the expiration of their respective terms and shall take office on the 3rd Tuesday in April following their election. If the board determines that supervisors shall serve staggered terms, the board shall, by ordinance, provide for a division of supervisors into 2 classes, one class to be elected for one-half of a full term and the other class for a full term and thereafter the supervisors shall be elected for a full term. The board shall publish the ordinance as a class 1 notice, under ch. 985, or as a notice, as described under s. 59.14 (1m) (b), before publication of the notice of the election at which supervisors are to be elected.

Walworth County is a self-organized county as noted under section 2-34 of the Walworth County Code of Ordinances.

Next we break down § 59.10(1)(b) of the Wisconsin Statutes.

1. The board may determine that the terms will be staggered.
2. If the board determines that supervisors shall serve staggered terms, the board shall, by ordinance, provide for a division of supervisors into 2 classes, one class to be
July 9, 2020
Staggered Terms of County Board Supervisors - Legal Opinion
No. ADM-CCO-05-20
Page 2

...elected for one-half of a full term and the other class for a full term and thereafter the supervisors shall be elected for a full term.

3. The board must publish the “staggered term ordinance” before publication of the notice of election at which supervisors are to be elected.

In summary, once the county board decides that terms will be staggered, the board will need to draft an ordinance dividing the supervisors into two classes. One class will serve for one year and the other class will serve for two years. This ordinance must be published as a class 1 notice prior to November 8, 2021. On November 8, 2021 the Walworth County Clerk will submit the “Type A” notice of the county supervisory election to the newspaper.

Both classes of supervisors will be elected on April 5, 2022. The first class will run for office again, for a two year term, on April 4, 2023. The second class will next run on April 2, 2024.

I will attend the next Executive Committee meeting should you have further questions.

MPC/drn

NOTE: This opinion is based solely on the facts as presented in your request. The existence of additional facts not disclosed may change this opinion.
### County Board Size

Maximum county board sizes are set by state law and depend on population. Some county boards are smaller due to board policy or approval by voters in a referendum. The average number of residents per county board member varies widely, from fewer than 1,000 in 14 counties to nearly 53,000 in Milwaukee County.

#### Board Size and Population Per District, 2019

*(in thousands)*

<table>
<thead>
<tr>
<th>County</th>
<th>Bd. Size</th>
<th>Pop./Dist.</th>
<th>County</th>
<th>Bd. Size</th>
<th>Pop./Dist.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adams</td>
<td>20</td>
<td>1.0</td>
<td>Marathon</td>
<td>38</td>
<td>3.6</td>
</tr>
<tr>
<td>Ashland</td>
<td>21</td>
<td>0.8</td>
<td>Marinette</td>
<td>30</td>
<td>1.4</td>
</tr>
<tr>
<td>Barron</td>
<td>29</td>
<td>1.6</td>
<td>Marquette</td>
<td>17</td>
<td>0.9</td>
</tr>
<tr>
<td>Bayfield</td>
<td>13</td>
<td>1.2</td>
<td>Menominee</td>
<td>7</td>
<td>0.6</td>
</tr>
<tr>
<td>Brown</td>
<td>26</td>
<td>10.1</td>
<td>Milwaukee</td>
<td>18</td>
<td>52.6</td>
</tr>
<tr>
<td>Buffalo</td>
<td>14</td>
<td>1.0</td>
<td>Monroe</td>
<td>16</td>
<td>2.9</td>
</tr>
<tr>
<td>Burnett</td>
<td>21</td>
<td>0.7</td>
<td>Oconto</td>
<td>31</td>
<td>1.3</td>
</tr>
<tr>
<td>Calumet</td>
<td>21</td>
<td>2.5</td>
<td>Oneida</td>
<td>21</td>
<td>1.7</td>
</tr>
<tr>
<td>Chippewa</td>
<td>15</td>
<td>4.3</td>
<td>Outagamie</td>
<td>36</td>
<td>5.2</td>
</tr>
<tr>
<td>Clark</td>
<td>29</td>
<td>1.2</td>
<td>Ozaukee</td>
<td>26</td>
<td>3.5</td>
</tr>
<tr>
<td>Columbia</td>
<td>28</td>
<td>2.0</td>
<td>Pepin</td>
<td>12</td>
<td>0.6</td>
</tr>
<tr>
<td>Crawford</td>
<td>17</td>
<td>1.0</td>
<td>Pierce</td>
<td>17</td>
<td>2.5</td>
</tr>
<tr>
<td>Dane</td>
<td>37</td>
<td>14.5</td>
<td>Polk</td>
<td>15</td>
<td>3.0</td>
</tr>
<tr>
<td>Dodge</td>
<td>33</td>
<td>2.7</td>
<td>Portage</td>
<td>25</td>
<td>2.9</td>
</tr>
<tr>
<td>Door</td>
<td>21</td>
<td>1.4</td>
<td>Price</td>
<td>13</td>
<td>1.1</td>
</tr>
<tr>
<td>Douglas</td>
<td>21</td>
<td>2.1</td>
<td>Racine</td>
<td>21</td>
<td>9.4</td>
</tr>
<tr>
<td>Dunn</td>
<td>29</td>
<td>1.5</td>
<td>Richland</td>
<td>21</td>
<td>0.9</td>
</tr>
<tr>
<td>Eau Claire</td>
<td>29</td>
<td>3.6</td>
<td>Rock</td>
<td>29</td>
<td>5.5</td>
</tr>
<tr>
<td>Florence</td>
<td>12</td>
<td>0.4</td>
<td>Rusk</td>
<td>19</td>
<td>0.8</td>
</tr>
<tr>
<td>Fond du Lac</td>
<td>25</td>
<td>4.2</td>
<td>St. Croix</td>
<td>19</td>
<td>4.7</td>
</tr>
<tr>
<td>Forest</td>
<td>21</td>
<td>0.4</td>
<td>Sauk</td>
<td>31</td>
<td>2.0</td>
</tr>
<tr>
<td>Grant</td>
<td>17</td>
<td>3.1</td>
<td>Sawyer</td>
<td>15</td>
<td>1.1</td>
</tr>
<tr>
<td>Green</td>
<td>31</td>
<td>1.2</td>
<td>Shawano</td>
<td>27</td>
<td>1.5</td>
</tr>
<tr>
<td>Green Lake</td>
<td>19</td>
<td>1.0</td>
<td>Sheboygan</td>
<td>25</td>
<td>4.7</td>
</tr>
<tr>
<td>Iowa</td>
<td>21</td>
<td>1.1</td>
<td>Taylor</td>
<td>17</td>
<td>1.2</td>
</tr>
<tr>
<td>Iron</td>
<td>15</td>
<td>0.4</td>
<td>Trempealeau</td>
<td>17</td>
<td>1.8</td>
</tr>
<tr>
<td>Jackson</td>
<td>19</td>
<td>1.1</td>
<td>Vernon</td>
<td>29</td>
<td>1.0</td>
</tr>
<tr>
<td>Jefferson</td>
<td>30</td>
<td>2.8</td>
<td>Vilas</td>
<td>21</td>
<td>1.0</td>
</tr>
<tr>
<td>Juneau</td>
<td>21</td>
<td>1.3</td>
<td>Waukegan</td>
<td>11</td>
<td>3.5</td>
</tr>
<tr>
<td>Kenosha</td>
<td>23</td>
<td>7.4</td>
<td>Washburn</td>
<td>21</td>
<td>0.8</td>
</tr>
<tr>
<td>Kewaunee</td>
<td>20</td>
<td>1.0</td>
<td>Washington</td>
<td>26</td>
<td>5.3</td>
</tr>
<tr>
<td>La Crosse</td>
<td>29</td>
<td>4.1</td>
<td>Wauskesha</td>
<td>25</td>
<td>16.2</td>
</tr>
<tr>
<td>Lafayette</td>
<td>16</td>
<td>1.1</td>
<td>Waupaca</td>
<td>27</td>
<td>1.9</td>
</tr>
<tr>
<td>Longlodec</td>
<td>21</td>
<td>1.0</td>
<td>Waukera</td>
<td>11</td>
<td>2.2</td>
</tr>
<tr>
<td>Lincoln</td>
<td>22</td>
<td>1.3</td>
<td>Winnebago</td>
<td>36</td>
<td>4.7</td>
</tr>
<tr>
<td>Manitowoc</td>
<td>25</td>
<td>3.3</td>
<td>Wood</td>
<td>19</td>
<td>4.0</td>
</tr>
</tbody>
</table>
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

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

________________________________       ___________________________________
Michael P. Cotter       Jessica Conley
Corporation Counsel     Finance Director

________________________________
Mark W. Luberda
County Administrator

If unsigned, exceptions shall be so noted by the County Administrator.
Ordinance No. ** - 05/20
Fiscal Note and Policy Impact Statement

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
May 18, 202

Dear Nancy-County Board Chair:

RE: Request for an ordinance

This letter is a request for an ordinance change due to information passed on to me concerning requirements of citizen participation on committee assignments.

This started with the change in the ordinance where Albert Stanek is appointed to the Railroad Commission. Al is a very good selection because of his background. I knew Al as a neighbor for several years also.

I had asked for the proposed ordinance to require a citizen member to be a resident of Walworth County. Administrator Luberda felt employment in Walworth County would be sufficient. In his research, it was discovered that there is no ordinance requiring residency of citizens to serve on committees of Walworth County.

I believe it would be appropriate and proper for such an ordinance.

Sincerely Jerry Grant – Dist. 4

Cc/Mark Luberda – County Administrator
David Weber – Chair of Executive Committee
ORDINANCE NO. ** – 09/20

AMENDING SECTION 2-238 OF THE WALWORTH COUNTY CODE OF ORDINANCES RELATING TO CITIZEN COMMITTEE MEMBERS

THE WALWORTH COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

PART I: That Section 2-238 of the Walworth County Code of Ordinances is hereby amended to add the following at the end of the existing text (additions are underlined; deletions are shown in strike-through text):

Sec. 2-238. Considerations in selection of nominees.

“(c) Unless otherwise provided by state statute, a strong preference for candidates who maintain residency, employment, or business ownership within Walworth County shall be observed but shall not be required upon good cause shown. Citizen applicants shall provide a written answer to the question “Do you work or live in Walworth County?”

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

PASSED and ADOPTED by the Walworth County Board of Supervisors this 8th day of September 2020.

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

County Board Meeting Date: September 8, 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
Corporation Counsel
Date

Jessica Conley
Finance Director
Date

Mark W. Luberda
County Administrator
Date

If unsigned, exceptions shall be so noted by the County Administrator.
I. **Title:** Amending Section 2-238 of the Walworth County Code of Ordinances Relating to Citizen Committee Members

II. **Purpose and Policy Impact Statement:** The purpose of this ordinance is to provide a strong preference for citizen committee applicants who maintain residency, employment, or business ownership in Walworth County when considering the selection of nominees. If the County Administrator proposes an appointment that deviates from this standard, it requires the County Administrator to provide appropriate justification for such deviation.

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: July 20, 2020

   Vote:

   County Board Meeting Date: September 8, 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>Michael P. Cotter</th>
<th>Date</th>
<th>Jessica Conley</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporation Counsel</td>
<td></td>
<td>Finance Director</td>
<td></td>
</tr>
</tbody>
</table>

Mark W. Luberda  
County Administrator  
Date
Sec. 2-238. - Considerations in selection of nominees.

(a) The County values providing as many citizens as possible with the opportunity to serve on committees. This value must be balanced with the need to provide skilled representatives on committees that oversee highly technical programs. To carry out the aforementioned goals, citizen representation on most county committees shall generally be limited to a maximum of ten consecutive years.

(b) The term guidance provided in (a) shall be given lesser weight in the following instances:

1. When making appointments to a committee that oversees a highly technical function such as Board of Adjustment, County Zoning Agency or WalCoMet.

2. When appointing a new member would significantly disrupt a committee due to the lack of experienced members.

3. When candidates need to possess certain credentials such as a medical doctor or registered nurse.

4. When there are no other qualified candidates willing to serve.

(Ord. No. 1098-04/18, pt. VII, 4-19-18)
Census Bureau representatives met with the Wisconsin Counties Association this morning to discuss continued 2020 Census outreach. One of the asks that came out of the meeting was for each County in Wisconsin to add the 2020 Census to their next County Board agenda. The purpose behind this is for the counties to receive a snapshot of the current response rate and ask questions regarding where the hot spots are for low response and what else can be done in their counties.

Please let me know if you can include the following response rates data in the board packet for your next meeting. All are of concern as they are well below the national average.

<table>
<thead>
<tr>
<th>Response Rate</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>61.4</td>
<td>US</td>
</tr>
<tr>
<td>68.4</td>
<td>Wisconsin</td>
</tr>
<tr>
<td>59.9</td>
<td>Walworth County</td>
</tr>
<tr>
<td>52.9</td>
<td>Lauderdale Lake Area</td>
</tr>
<tr>
<td>52.3</td>
<td>Lake Como Area</td>
</tr>
<tr>
<td>49.1</td>
<td>Williams Bay Area</td>
</tr>
<tr>
<td>36.2</td>
<td>Lake Delavan Area</td>
</tr>
<tr>
<td>35.2</td>
<td>Whitewater</td>
</tr>
<tr>
<td>34.0</td>
<td>Lake Geneva Area</td>
</tr>
<tr>
<td>29.8</td>
<td>Lake Geneva Area</td>
</tr>
</tbody>
</table>

Several explanations for the low response could be:

1) Many folks in the county do not receive mail at their address so we have to hand deliver packets to their door. This operation, Update Leave, was delayed due to COVID19 and just started again a few weeks ago - so many may have just recently received their letters.

2) With the exception of Whitewater, these are lake areas with many second/vacation homes. Some folks may not have visited yet to see the letter and/or may not be aware that they need to respond for all their homes - even if they don't live there most of the time.

Please let me know your thoughts on this....and how I can assist!

Stay safe,
Patti

Patricia (Patti) Gillette, MPH
Partnership Specialist
Chicago Regional Census Center
U.S. Census Bureau
Cell 414-870-1743
patricia.a.gillette@2020census.gov
www.census.gov
Walworth County Clerk,

Hello,

On Tuesday, June 9, 2020 at approximately 1:30 PM I was driving along HWY H near Russos Auto Shop in Lake Geneva/Bloomfield, WI. While driving a county mower kicked a stone up at my car and I stopped to assess the damage. Upon assessing the damage, I noted a deep dent and scrape on the right front side of the car. I went back to speak with the mower but upon getting out of my car and pointing at my car the mower raised his hands, but I was unable to approach the mower due to our parked locations. I got back in my car and called my grandfather who had me pick him up and go back out to the mower. My grandfather was able to get the mowers attention and the mower claimed he thought I had an issue with his mow job (I was pointing at my car). After finishing the conversation with the mower, we were given a sheet of paper with a number to contact, Amy Limones. After getting home I wrote down everything I needed to remember and then contacted Amy. Amy had me email her the information and stated they would email me back on Wednesday, June 10, 2020. I awoke on Wednesday with email stating what I needed to complete to file a claim. Attached with this letter is an appraisal from Miller Motors Ford Body Shop in Burlington, WI. There is also a card with contact information. If you have any questions or would like to see any pictures, please contact the number or email attached to the appraisal.

Thank you,

Natasha Zwijacz
Cell: 262-903-9151
Email: nzwijacz18@gmail.com
# Preliminary Estimate

**Customer: Zwiżacz, Natasha**

Written By: TRAVIS RICHARDS

Insured: Zwiżacz, Natasha  
Policy #:  
Date of Loss:  
Claim #:  
Days to Repair: 0

**Owner:**  
Zwiżacz, Natasha  
(262) 903-9151 Cell

**Inspection Location:**  
MILLER MOTOR SALES  
1196 MILWAUKEE AVE  
BURLINGTON, WI 53105  
Repair Facility  
(262) 763-2466 x237 Business

---

## VEHICLE

2019 FORD Fusion Hybrid SE FWD 4D SED 4-2.0L Hybrid Sequential MPI

<table>
<thead>
<tr>
<th>Vin:</th>
<th>3FA6P0LU7KR124487</th>
</tr>
</thead>
<tbody>
<tr>
<td>License:</td>
<td></td>
</tr>
</tbody>
</table>
State: | WI |
| Interio Color: |  
Exterior Color: |  
Production Date: |  
Mileage In: |  
Mileage Out: |  
Condition: |  
Job #: |  
Vehicle Out: |  
Lane Departure Warning |  
SEATS |  
Cloth Seats |  
Bucket Seats |  
Reclining/Lounge Seats |  
WHEELS |  
Aluminum/Alloy Wheels |  
PAINT |  
Three Stage Paint |  
OTHER |  
Traction Control |  
Stability Control |  
Signal Integrated Mirrors |  
California Emissions |  
Power Trunk/Gate Release |

**POWER**  
Power Steering  
Power Brakes  
Power Windows  
Power Locks  
Power Mirrors  
Power Driver Seat  
Power Passenger Seat  

**DECOR**  
Dual Mirrors  
Tinted Glass  
Console/Storage  
Overhead Console  

**CONVENIENCE**  
Air Conditioning  
Intermittent Wipers  
Tilt Wheel  
Cruise Control  
Rear Defogger  
Keyless Entry  
Alarm  
Message Center  
Steering Wheel Touch Controls  
Telescopic Wheel  
Climate Control  
Navigation System  
Remote Starter  
Backup Camera  
Parking Sensors  
Intelligent Cruise  

**RADIO**  
AM Radio  
FM Radio  
Stereo  
Search/Seek  
Satellite Radio  

**SAFETY**  
Drivers Side Air Bag  
Passenger Air Bag  
Anti-Lock Brakes (4)  
4 Wheel Disc Brakes  
Front Side Impact Air Bags  
Head/Curtain Air Bags  
Hands Free Device  
Blind Spot Detection  

---

6/15/2020 3:32:18 PM  
033737  
Page 1

Page 33 of 65
## Preliminary Estimate

Customer: Zwijacz, Natasha

2019 FORD Fusion Hybrid SE FWD 4D SED 4-2.0L Hybrid Sequential MPI

<table>
<thead>
<tr>
<th>Line</th>
<th>Oper</th>
<th>Description</th>
<th>Part Number</th>
<th>Qty</th>
<th>Extended Price $</th>
<th>Labor $</th>
<th>Paint</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>FRONT BUMPER &amp; GRILLE</td>
<td></td>
<td></td>
<td></td>
<td>4.0</td>
<td>2.0</td>
</tr>
<tr>
<td>2</td>
<td>R&amp;I</td>
<td>R&amp;I bumper cover</td>
<td></td>
<td></td>
<td>1.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>FRONT LAMPS</td>
<td></td>
<td></td>
<td>0.3</td>
<td>1.4</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>R&amp;I</td>
<td>RT Headlamp Assy w/o signature lamps</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>FENDER</td>
<td></td>
<td></td>
<td>0.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Rpr</td>
<td>RT Fender</td>
<td></td>
<td></td>
<td>4.0</td>
<td>2.0</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>Add for Three Stage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>R&amp;I</td>
<td>RT Fender liner w/o turbo w/2.0 liter DOHC</td>
<td></td>
<td></td>
<td>0.3</td>
<td>1.4</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Repl</td>
<td>RT Upper molding titanium/black</td>
<td>ESZ16004EA</td>
<td>1</td>
<td>48.21</td>
<td>0.2</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>R&amp;I</td>
<td>Mud guard factory</td>
<td></td>
<td></td>
<td>0.4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td></td>
<td>PILLARS, ROCKER &amp; FLOOR</td>
<td></td>
<td></td>
<td>0.7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>R&amp;I</td>
<td>RT Rocker molding</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td></td>
<td>FRONT DOOR</td>
<td></td>
<td></td>
<td>1.6</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Bldt</td>
<td>RT Outer panel</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>R&amp;I</td>
<td>RT Belt molding</td>
<td></td>
<td></td>
<td>0.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Repl</td>
<td>RT Nameplate &quot;FUSION&quot;</td>
<td>DSZ158425828</td>
<td>1</td>
<td>20.75</td>
<td>0.2</td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>R&amp;I</td>
<td>RT R&amp;I mirror</td>
<td></td>
<td></td>
<td>Incl.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>R&amp;I</td>
<td>RT Handle, outside w/o passive entry</td>
<td></td>
<td></td>
<td>0.3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19</td>
<td>R&amp;I</td>
<td>RT R&amp;I trim panel</td>
<td></td>
<td></td>
<td>0.5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td></td>
<td># Tint Color To Match</td>
<td></td>
<td>1</td>
<td>T</td>
<td>0.5</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td></td>
<td># Restore Corrosion Protection</td>
<td></td>
<td>1</td>
<td>8.00</td>
<td>0.2</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td></td>
<td># Hazardous Waste Removal</td>
<td></td>
<td>1</td>
<td>5.00</td>
<td>0.2</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td></td>
<td># Car Cover</td>
<td></td>
<td>1</td>
<td>10.00</td>
<td>0.3</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Repl</td>
<td>RT Mirror Assy</td>
<td>JSZ17682BB</td>
<td>1</td>
<td>296.66</td>
<td>0.5</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td></td>
<td>Dis/reassemble to refn</td>
<td></td>
<td></td>
<td></td>
<td>0.6</td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Rpr</td>
<td>RT Mirror cover</td>
<td></td>
<td></td>
<td>0.5</td>
<td>0.5</td>
<td></td>
</tr>
<tr>
<td>27</td>
<td></td>
<td>Overlap Minor Panel</td>
<td></td>
<td></td>
<td>-0.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td></td>
<td>Add for Three Stage</td>
<td></td>
<td></td>
<td>0.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td></td>
<td>VEHICLE DIAGNOSTICS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Repl</td>
<td>Pre-repair scan</td>
<td></td>
<td>1</td>
<td>m</td>
<td>1.0</td>
<td>M</td>
</tr>
<tr>
<td>31</td>
<td>Repl</td>
<td>Post-repair scan</td>
<td></td>
<td>1</td>
<td>m</td>
<td>1.0</td>
<td>M</td>
</tr>
</tbody>
</table>

| SUBTOTALS | 388.62 | 12.7 | 5.9 |
Preliminary Estimate

Customer: Zwijacz, Natasha

2019 FORD Fusion Hybrid SE FWD 4D SED 4-2.0L Hybrid Sequential MPI

ESTIMATE TOTALS

<table>
<thead>
<tr>
<th>Category</th>
<th>Basis</th>
<th>Rate</th>
<th>Cost $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parts</td>
<td>10.7 hrs</td>
<td>@ $ 60.00 /hr</td>
<td>365.62</td>
</tr>
<tr>
<td>Body Labor</td>
<td>5.9 hrs</td>
<td>@ $ 60.00 /hr</td>
<td>642.00</td>
</tr>
<tr>
<td>Paint Labor</td>
<td>2.0 hrs</td>
<td>@ $ 105.00 /hr</td>
<td>354.00</td>
</tr>
<tr>
<td>Mechanical Labor</td>
<td>5.9 hrs</td>
<td>@ $ 38.00 /hr</td>
<td>210.00</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
<td></td>
<td>224.20</td>
</tr>
</tbody>
</table>

Subtotal          $1,818.82

Sales Tax         $90.94
County Tax         $1.82

Grand Total       $1,911.58

Deductible        0.00

CUSTOMER PAY      0.00

INSURANCE PAY     $1,911.58

MyPriceLink Estimate ID / Quote ID:
700797362913681408 / 68743970

MOTOR VEHICLE REPAIR PRACTICES ARE REGULATED BY CHAPTER ATCP 132, WIS. ADM. CODE, ADMINISTERED BY THE BUREAU OF CONSUMER PROTECTION, WISCONSIN DEPT. OF AGRICULTURE, TRADE AND CONSUMER PROTECTION, P.O. BOX 8911, MADISON, WISCONSIN 53708-8911.

MILLER MOTOR SALES, INC.
1196 Milwaukee Ave.
Burlington, WI 53105

Phone: 262.661.4778
Cell: 262.210.8216
Fax: 262.763.5459

Travis Richards
Body Shop Manager
bodyshop@millermotorsales.com
www.millermotorsales.com
Preliminary Estimate

Customer: Zwijacz, Natasha

2019 FORD Fusion Hybrid SE FWD 4D SED 4-2.0L Hybrid Sequential MPI

Estimate based on MOTOR CRASH ESTIMATING GUIDE and potentially other third party sources of data. Unless otherwise noted, (a) all items are derived from the Guide DR2JP13, CCC Data Date 05/01/2020, and potentially other third party sources of data; and (b) the parts presented are OEM-parts. OEM parts are manufactured by or for the vehicle’s Original Equipment Manufacturer (OEM) according to OEM’s specifications for U.S. distribution. OEM parts are available at OE/Vehicle dealerships or the specified supplier. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships with discounted pricing. Asterisk (*) or Double Asterisk (**) indicates that the parts and/or labor data provided by third party sources of data may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. The symbol (<>) indicates the refinish operation WILL NOT be performed as a separate procedure from the other panels in the estimate. Non-Original Equipment Manufacturer aftermarket parts are described as Non OEM, A/M or NAGS. Used parts are described as LKQ, RCY, or USED. Reconditioned parts are described as Recond. Recored parts are described as Recore. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries.

Some 2020 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The CCC ONE estimator has a list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

The following is a list of additional abbreviations or symbols that may be used to describe work to be done or parts to be repaired or replaced:

SYMBOLS FOLLOWING PART PRICE:
m=Motor Mechanical component. s=Motor Structural component. T=Miscellaneous Taxed charge category. X=Miscellaneous Non-Taxed charge category.

SYMBOLS FOLLOWING LABOR:

OTHER SYMBOLS AND ABBREVIATIONS:

CCC ONE Estimating - A product of CCC Information Services Inc.

The following is a list of abbreviations that may be used in CCC ONE Estimating that are not part of the MOTOR CRASH ESTIMATING GUIDE:
Claim against County

To Whom it may Concern:  ATTN: Kim Bushey

I am writing concerning my damages done to my car due to excessive force used by Walworth County Sheriff department. My wife suffers from PTSD caused by serving in the Army and going to War twice. She left home driving from Texas by herself. She was doing 45mph in a 30 but she didn't stop for the police for around 10 miles or so. They boxed her in to get her to stop. When they stopped her she wouldn't get out the car so they busted the window but they went too far. They beat up the door, busted all the chrome around the window and put dents in the door. She is only 5'2" and about 120 pounds. They ruffed her up also during the arrest. They called me after she was about to be released about a week. They released her against my wishes due to her mental state. The damages to the car, it was impounded 5/21-5/29 $602.45 I had to get the window fixed to drive home $335.81 The estimate for the damage door it was about $1200. I drove from Texas fueling my truck. I had to get two cars fueled on the way back home.
about a 20-hour drive. I would like to be reimbursed for damages to my car due to Walworth County Sheriff department due to excessive force by Captain Rob Hall during an arrest of my wife, who has PTSD.

Also they knew she was suffering from mental illness because she was in a trance state of mind. I talked to the Captain Rob Hall. They knew she was an vet because of the disabled veteran license plates.

I can be contacted at (346) 218-0169 if you have any questions.

Sincerely,

Damoned Brown Sr.
Damoned Blown Sr.
## Damoned Brown

<table>
<thead>
<tr>
<th>Year</th>
<th>Make</th>
<th>Policy #</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>LINCOLN</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Model</th>
<th>Body Style</th>
<th>V.I.N.</th>
<th>Claim #</th>
<th>Authorized By</th>
</tr>
</thead>
<tbody>
<tr>
<td>MKZ</td>
<td>4 DOOR SEDAN</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Home Phone</th>
<th>Bus. Phone</th>
<th>Damage/ Cause</th>
</tr>
</thead>
<tbody>
<tr>
<td>() -</td>
<td>() -</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Qty.</th>
<th>Part</th>
<th>Description</th>
<th>Block Size</th>
<th>List</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DD12063GTYN</td>
<td>Door (lam)(Front)(Right)(slr contr)(Acoustic Inter</td>
<td>19.8 x 31</td>
<td>469.05</td>
</tr>
<tr>
<td>1</td>
<td>LABOR</td>
<td>Labor 1.50 hours</td>
<td></td>
<td>119.00</td>
</tr>
</tbody>
</table>

**Special Instructions**

Warranty: We include a lifetime warranty on any defects in our glass, and a lifetime warranty on our labor. Also, we have included Unlimited Chip Repairs on any windshield replacement as long as you own the vehicle. This warranty does not cover future cracks or any incidental, indirect, or consequential damages. Note any rust in the pinch weld area will void the leakage guarantee. Any rust repairs are the sole responsibility of the customer. Any special ordered items or any appointment that has been scheduled and you want to cancel you will pay 25% Restocking Fee or Deposit Fee. WARNING: with any replacement on a door glass/back glass there are times broken glass may cause doors to NOT lock or unlock, glass can be jammed where we could not get to. The window regulator may go bad after a door glass has been replaced due to the original damages that caused the window to break. We will not be responsible for the door not opening or closing or the damaged regulator. You may have to see a body shop or pay extra for any parts needed. We are not responsible for any unattended items in your vehicle.

5/29/20 3:27pm by ADMIN Updated 5/29/20 5:16pm by ADMIN
**AM Towing**

- **W230 S7085 Guthrie School Rd**
- **Big Bend, WI 53103 • (262) 662-9770**
- **W4050 Highway 11**
- **Elkhorn, WI 53121 • (262) 723-1910**

**www.amtows.com**

<table>
<thead>
<tr>
<th>BILL TO</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>DAMONE D. BROWN</td>
<td>5-21-20</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>OWNER</th>
<th>DRIVER</th>
</tr>
</thead>
<tbody>
<tr>
<td>DAMONE D. BROWN</td>
<td>---</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>STREET</th>
<th>FLEET #</th>
</tr>
</thead>
<tbody>
<tr>
<td>9326 TAYLOR CLIFF LN</td>
<td>21</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
<th>PHONE #</th>
</tr>
</thead>
<tbody>
<tr>
<td>CYPRESS</td>
<td>TX</td>
<td>77433</td>
<td>346-218-0169</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>P.O.</th>
<th>R.O.</th>
<th>UNIT #</th>
<th>LIC PLATE #</th>
<th>STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>LINCOLN</td>
<td></td>
<td></td>
<td>30646DV</td>
<td>TEXAS</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>YEAR</th>
<th>MAKE</th>
<th>MODEL</th>
<th>COLOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>BOSS GR2</td>
<td>M-2</td>
<td>MHT</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VIN</th>
<th>ODOMETER</th>
</tr>
</thead>
<tbody>
<tr>
<td>3LN6L5C915K2621172</td>
<td>---</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LOCATION</th>
<th>TOWED TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>R43- HAP</td>
<td>AM YARD</td>
</tr>
</tbody>
</table>

- [ ] HOLD
- [ ] CLEANED OUT
- [ ] RELEASED

<table>
<thead>
<tr>
<th>DL #</th>
<th>IR #</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- [ ] ARREST
- [ ] ACCIDENT
- [ ] DISABLE
- [ ] ABANDONED
- [ ] OTHER

<table>
<thead>
<tr>
<th>TOW</th>
<th>FLATBED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**STORAGE**

- **From** 5-21 **To** 5-29
- **8 Days @ 50.00**

**Damage Waiver**

I will not hold AM Towing or any employee of AM Towing liable for damage done to the vehicle for which I have requested assistance in moving, gaining legal entry into or repairing.

I, the undersigned, do hereby certify that I am legally authorized and entitled to take possession of the vehicle described above and all personal property therein.

Customer Signature

<table>
<thead>
<tr>
<th>HOOK</th>
<th>MILES</th>
<th>WINCH</th>
<th>HRS.</th>
<th>RATE @</th>
</tr>
</thead>
<tbody>
<tr>
<td>1000</td>
<td>4000</td>
<td>100</td>
<td>10.45</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CLEAN-UP</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>PAID</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>[ ] Credit Auth. #</td>
<td>522340</td>
</tr>
<tr>
<td>[ ] Check #</td>
<td></td>
</tr>
<tr>
<td>[ ] Cash</td>
<td></td>
</tr>
</tbody>
</table>

| SUB TOTAL | 100.00 |
| TAX       | 10.45  |
| STORAGE   | 400.00 |

| TOTAL     | 600.45 |
TO: Walworth County
   c/o Kimberly S. Bushey
   County Clerk
   100 West Walworth Street
   Elkhorn, WI 53121

Pursuant to Wis. Stat. § 893.80(1)(a),

PLEASE TAKE NOTICE:

1. WSPR Enterprise, LLC ("WSPR") is a Wisconsin limited liability company, with its principal place of business located at W1966 Spring Prairie Rd., Burlington, WI 53105.

2. WSPR owns three parcels of land in the Town of Spring Prairie, Walworth County, Wisconsin, identified as Tax Key Nos. OSP 2900001, and OSP 2090002, and OSP 2000004 (collectively "Property").

3. Walworth County is a governmental unit organized under the laws of the State of Wisconsin.

4. The Town of Spring Prairie ("Town") is a governmental unit organized under the laws of the State of Wisconsin. The individuals listed above, at all times relevant to this Notice, were duly elected members of the Town Board.

5. On May 23, 2019, Asphalt Contractors, Inc. ("ACI"), with the cooperation and approval of Donald Fredrich, the principal of WSPR, submitted a Petition for Amendment of the Walworth County Code of Ordinances ("First Rezone Petition") to Walworth County, requesting a change in zoning of the Property from A-1 to M-3 zoning.

6. On the same date ACI submitted a Petition for Amendment of the Walworth County Code of Ordinances with Walworth County, requesting a change in zoning of the parcel of land adjacent to the Property on the west from A-1 to M-3 zoning ("Polson Petition"). This petition was made with the cooperation and approval of Mark Polson, the owner of that parcel.

7. The purpose of the First Rezone Petition and the Polson Petition (collectively, "Polson Petitions") was to allow ACI to engage in extraction of gravel and operation of a washing plant on portions of the property owned by WSPR and Polson, under the name "Polson Gravel Pit."
8. The Polson Petitions were accompanied by a Non-metallic Mining Reclamation Plan and eight pages of detailed drawings and plans describing the location, operation, and timeline of the proposed mining operation prepared by Lynch & Associates Engineering Consultants, LLC.

9. On June 19, 2019, representatives of ACI presented the Polson Petitions and addressed questions at an informational meeting open to the public at the Spring Prairie Town Hall. Members of the public attended that meeting.

10. Within days of the informational meeting, an informal “No Pit” group formed that thereafter engaged in a campaign opposing the Polson Petitions by spreading misinformation and disparaging the Fredrich family.

11. On June 22, 2019, just three days after the informational meeting, Town Board member Lynn Lein personally hosted a “No Pit” group meeting at her place of business. On information and belief, Lein participated actively in “No Pit” activities on this and other occasions.

12. Lein had a conflict of interest in regard to the Polson Petitions, as she was a close business associate of Scott Wilson, who owned one of two operating gravel pits in the Town. Wilson would benefit financially by preventing increased competition through denial of the Polson Petitions.

13. Over a period of months ACI, Fredrich, and their representatives met with Walworth County officials to assure the petitions and applications for operation of the non-metallic mining operation on the Property would be carefully planned and compliant with laws and regulations. Changes were made to the plans to further improve them and minimize the environmental effects of the operation.

14. The Polson Petitions ultimately were not pursued.

15. On August 26, 2019, ACI, with the cooperation and approval of Fredrich and WSPR, filed a Petition for Amendment of the Walworth County Code of Ordinances with Walworth County (“Second Rezone Petition”), requesting a change in zoning of a portion of the Property on the north side of Spring Prairie Road from A-1 to M-3 zoning.

16. Also on or about August 26, 2019, ACI, with the cooperation and approval of WSPR, filed a Conditional Use Permit Application (“CUP Application’) with Walworth County.

17. The purpose of the Second Rezone Petition and the CUP Application was to allow ACI to engage in extraction of gravel and operation of a washing plant on portions of the Property north of Spring Prairie Road under the name “Spring Prairie Reserve” (“Project”).
18. The Project planned on mining fewer acres than the Polson Petitions.

19. The Second Rezone Petition and CUP Application were accompanied by a Non-metallic Mining Reclamation Plan and 22 pages of detailed drawings and plans describing the location, operation, and timeline of the Project prepared by GZA GeoEnvironmental, Inc. (GZA) and Lynch & Associates Engineering Consultants, LLC.

20. By statute and County ordinance, the Town Board had the opportunity to vote to approve or disapprove the Second Rezone Petition and CUP Application. Wis. Stat. § 59.69(5)(e)2; Walworth County Ord. 74-58(6). Whichever way the Town decided, the Second Rezone Petition and CUP Application would go to the County Zoning Agency and the County Board of Supervisors for further consideration and a final vote. Wis. Stat. § 59.69(5)(e)(3–5).

21. On November 19, 2019, GZA provided the Town board with a comprehensive, systematic, and scientific analysis consisting of approximately 30 pages addressing in detail public concerns raised about the Project. The Town board refused to accept or review this submission.

22. The GZA analysis was accompanied by an additional systematic and scientific study by a professional real estate appraiser on the effect of non-metallic mining operations on nearby residential property values in locations in Walworth County and elsewhere in Wisconsin. In each of four case studies, the appraiser found that proximity to non-metallic mining operations had no discernable effect on residential real estate values as measured by percentage of list price to sales price, time on the market, and price per square foot compared to more distant residences.

23. At a meeting on January 13, 2020, the Town Board considered an amendment to the Town ordinances to create a chapter requiring a permit process for approving a non-metallic mining operation. No ordinance like it had ever been considered by the Town before. The proposed ordinance purported to give the Town Board the power to grant or deny a permit for operation of a non-metallic mining facility in the Town.

24. The proposed ordinance purported to give the Town the right to consider factors including “the location of the proposed mine, ... the expected impacts on area roads, ... [and whether the use] would be compatible with adjacent agricultural uses....” (Ord. No. 2020-01 § 26.6.) The proposed ordinance purported to allow the Town to consider “[t]he method and manner of restoring the areas of the operation after the termination of operations to condition of practical usefulness and reasonable physical attractiveness.” (Ord. No. 2020-01 § 26.3(m).)

25. This ordinance was proposed in response to public opposition to the Second Rezone Petition and CUP Application. The Town Board Chairman, Tom Bolift,
stated, "You cannot legislate against a gravel pit, but you can control how you deal with approving or not approving them."

26. The Town Board intended the proposed ordinance amendment to impede consideration and approval of the Second Rezone Petition and CUP Application.

27. On January 16, 2020, the Town Planning and Zoning Commission held a public meeting to consider the Second Rezone Petition and CUP Application. After hearing comments from representatives of the applicant and public comments both in opposition and in support of the Project, the Planning and Zoning Commission voted to approve the Second Rezone Petition and CUP Application.

28. On February 10, 2020, the Town Board adopted the new ordinance aimed at making it more difficult to obtain approval for a non-metallic mining operation in the Town. Adoption of this ordinance exceeded the Town's authority, created a zoning ordinance without county approval, and is preempted by state law and county ordinance regulating non-metallic mining reclamation permits.

29. Also on February 10, 2020, the Town Board voted unanimously to disapprove the Second Rezone Petition and CUP Application.

30. The Town Board's decision to disapprove the Second Rezone Petition and CUP Application was based on speculative and unsupported assertions of fact.

31. At the February 10, 2020, Town Board meeting, Lein, who had publicly and actively participated in "No Pit" activities opposing the Project, read a prepared statement against approval and participated in the vote in spite of her bias, having vigorously campaigned in opposition to the Project before considering the facts presented to the Town Board on the record. Lein failed to recuse herself from the proceedings in spite of her conflict of interest arising from association with the owner of a gravel pit that would be competing with the Project.

32. The Town Board's action in disapproving the Project was arbitrary, irrational, and represented the Town Board's will instead of its judgment.

33. The Town Board did not prepare or adopt a resolution disapproving the Second Rezone Petition in compliance with Wis. Stat. § 59.69(5)(e)3 at the February 10, 2020, meeting.

34. At the prompting of Matthew Weidensee of the County Land Use and Resources Management Department, the Town Board called a special meeting on February 19, 2020, to adopt a resolution disapproving the Second Rezone Petition.

35. The Resolution adopted at the February 19, 2020, meeting stated rationale for the Town Board decision that was arbitrary, irrational, and represented the Town Board’s will instead of its judgment. Unlike the initial vote on February 10, 2020,
the Resolution was not adopted by unanimous vote. Town Supervisor Donald Trimberger declined to support the Resolution.

36. Following the Town Board decision, the Walworth County Zoning Agency ("Zoning Agency") considered the Second Rezone Petition and CUP Application at its meeting on February 20, 2020, for the purpose of deciding what action to recommend to the Board of Supervisors. Wis. Stat. § 59.69(5)(e)4.

37. At the February 20, 2020, meeting the staff of the Walworth County Land Conservation Division reported to the Zoning Agency that the Second Rezone Petition and CUP Application, along with its accompanying reclamation plan, was complete and complied with County ordinances relating to non-metallic mining operations, and in particular that the reclamation plan for the Project met the requirements of state law and county ordinance.

38. The Zoning Agency heard public testimony supporting and opposing approval of the Second Rezone Petition and CUP Application.

39. During the February 10, 2020, meeting, members of the Zoning Agency commented that the materials submitted in support of the Project were "very well planned," and "very good," and "very complete." One Zoning Agency member commented that he had no idea how to change it.

40. In spite of the Zoning Agency’s observations, under Wisconsin statute, the Zoning Agency could not recommend approval of the Second Rezone Petition because the Town Board had disapproved it. The Zoning Agency was limited to recommending disapproval, or approval with changes. Wis. Stat. § 59.69(5)(e)(3).

41. The Zoning Agency was unable to identify changes to the Project plans that could improve them.

42. The Zoning Agency voted to recommend disapproval of the Second Rezone Petition and CUP Application, relying in large part on the reasoning that the soil at the Project site would not be as good after mining and reclamation.

43. The soil reclamation plan for the Project, however, was not lawfully an issue before the Zoning Agency for vote. The Zoning Agency improperly considered and voted on the basis of the soil reclamation plan. The quality of the soil on private property owned and farmed exclusively by WSRP is not a matter for consideration of the public good.

44. At its meeting on March 9, 2020, the Town Board voted to amend the unprecedented Town ordinance requiring a town permit for non-metallic mining operations in the Town by adding that consideration under the ordinance could be given to "whether or not [the project] would be compatible with adjacent agricultural uses … ."
45. At its meeting on March 10, 2020, without further public hearing, the Walworth County Board of Supervisors voted to deny the Second Rezone Petition and CUP Application. Although the Board of Supervisors had the power to approve the applications, the Board acted on the basis of recommendation of the Zoning Agency and the opposition by the Town Board.

46. The Town Board, the Zoning Agency, and the County Board of Supervisors breached their ministerial, quasi-judicial, and legislative duties by disapproving the Second Rezone Petition and CUP Application on grounds that were arbitrary, unreasonable, and that had no substantial relationship to a legitimate public interest, and thus were in violation of WSPR’s rights guaranteed by the Constitutions of the United States and the State of Wisconsin.

47. The Town Board, the Zoning Agency, and the County Board of Supervisors acted inconsistently with the laws of the State of Wisconsin and ordinances of Walworth County.

48. Other similarly situated gravel pits are permitted to operate in the Town and the County. Denial of the Second Rezone Petition and CUP Application was in violation of WSPR’s right under the Constitutions of the United States and the State of Wisconsin to equal protection under the law.

49. The participation of Lein in the Town Board’s consideration of the Second Rezone Petition and CUP Application violated WSPR’s constitutional right to a fair hearing because of bias, as Lein acted as an advocate rather than a decision maker in the process.

50. The actions and omissions of the Town Board, the Zoning Agency, and the County Board of Supervisors have caused injuries and damages to WSPR.

This is a Notice of Injury filed and served pursuant to Wis. Stat. § 893.80(1)(a). This is not a notice of claim under Wis. Stat. § 893.80(1)(b). A separate Notice of Claim will be filed and served in compliance with applicable law.

Dated this 7th day of July, 2020.

GODFREY, LEIBSLE,
BLACKBOURN & HOWARTH, S.C.
Attorneys for Claimant, WSPR Enterprise, LLC

By: ____________________________
Lisle W. Blackbourn (1003897)
IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DANGELO SHAUN LUX;
and

LORENZO NETTLES

Plaintiffs,

v.

CITY OF WHITEWATER, A MUNICIPAL
CORPORATION; CITY OF WHITEWATER CHIEF OF
POLICE AARON RAAP;
ADAM VANDER STEEG POLICE OFFICER;
MIKE ZENS POLICE OFFICER;
JUSTIN STUPPY POLICE OFFICER;
WALWORTH COUNTY, A MUNICIPAL
CORPORATION;
DEPUTY RICHARD JOHNSON;
WALWORTH COUNTY
SHERIFF KURT PICKNELL

Defendants.

COMPLAINT AND JURY DEMAND

NOW COMES the Plaintiffs, DANGELO SHAUN LUX and LORENZO NETTLES, by
their attorneys, JUDGE LANG & KATERS, LLC, and complains against the above-named Defendants,
and for their claims for relief, alleges and shows to the Court as follows:

I. INTRODUCTION

1. This is a civil rights action under 42 U.S.C. § 1983 to redress the deprivation under
color of the law of Plaintiffs’ rights to be free of excessive force and unlawful arrest and for equal
protection under the laws as secured by the Fourth and Fourteenth Amendments of the United States
Constitution.

II. JURISDICTION AND VENUE
2. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because this action arises under the United States Constitution and Laws of the United States, and pursuant to 28 U.S.C. § 1343 because this action seeks to redress the deprivation, under color of state law, of Plaintiffs’ civil rights.

3. This Court has supplemental jurisdiction over all state law claims which arise out of the same facts common to Plaintiffs’ federal claims pursuant to 28 U.S.C. § 1367.

4. Venue in this district is proper under 28 U.S.C. § 1391(b)(a) because most Defendants reside in this district and because a substantial part of the events and omissions giving rise to Plaintiffs’ claims occurred within this district.

III. PARTIES

5. Dangelo Lux (“Lux”), date of birth July 22, 1997, was 21 years old at all times relevant hereto and an adult citizen of the United States living in Whitewater, WI. Dangelo Lux suffered severely on September 20, 2018, as a result of the Defendants’ unlawful conduct as alleged herein. Mr. Lux is African American.

6. Lorenzo Nettles (“Nettles”), date of birth September 11, 1995, was 22 years old at all times relevant hereto and an adult citizen of the United States living at an apartment in Kansasville, WI 53139. Lorenzo Nettles suffered severely on September 20, 2018, as a result of Defendants’ unlawful conduct as alleged herein. Mr. Nettles is African American.

7. Defendant City of Whitewater (“Whitewater”) with offices of its executive at 312 W. Whitewater Street Whitewater, WI 53190, is and was at all times material hereto, a Municipal Corporation organized under the laws of the State of Wisconsin. Whitewater established, operated and maintained Whitewater Police Department (“WPD”) at all times material hereto; Whitewater is ultimately responsible for the training, supervising, and discipline of WPD employees and the
creation and implementation of its policies and procedures through its Chief of Police, currently Chief Aaron M. Raap, and had ultimate control and authority over WPD and all Defendants, pursuant to Wis. Stat. § 895.46, is obligated to indemnify all Defendants in this action.

8. Defendant Aaron Raap (“Raap”) is the Police Chief of the Whitewater Police Department. In that capacity he oversees the WPD. By law, custom, de-facto or otherwise, and/or delegation, he has authority over the Police Department for all actions at issue in this case. He is responsible for ensuring that policies and practices of the WPD comply with federal and state requirements for the treatment of citizens like the Plaintiffs. He is sued in his official capacity for all the constitutional claims at issue arising out of Defendants’ unlawful and racially motivated use of excessive force and detention. At all times relevant to this action, Raap was acting under color of the law and within the scope of his employment with the WPD or Whitewater.

9. Defendant Lieutenant Adam Vander Steeg (“Vander Steeg”) is an adult citizen of the State of Wisconsin and a resident of the State of Wisconsin. Defendant Vander Steeg was a lieutenant with WPD at all times relevant to this action and was acting under color of the law and within the scope of his employment with the WPD or Whitewater at all times relevant hereto.

10. Defendant Officer Mike Zens (“Zens”) is an adult of the State of Wisconsin and a resident of the State of Wisconsin. Defendant Zens was a Police Officer with WPD at all times relevant to this action and was acting under color of law and within the scope of his employment with the WPD or Whitewater at all times hereto.

11. Defendant Police Officer Justin Stuppy (“Stuppy”) an adult of the State of Wisconsin and a resident of the State of Wisconsin. Defendant Stuppy was a Police Officer with WPD at all times relevant to this action and was acting under color of law and within the scope of his employment with the WPD or Whitewater at all times hereto.
12. Defendant Deputy Sheriff Richard Johnson (“Johnson”) is an adult of the State of Wisconsin and a resident of the State of Wisconsin. Defendant Johnson was a Deputy Sheriff with Walworth County Sheriff’s Department at all times relevant to this action and was acting under color of law and within the scope of his employment with the Walworth County Sheriff’s Department at all times hereto. Sheriff

13. Defendant Kurt Picknell (“Picknell”) is the Walworth County Sheriff of the Walworth County Sheriff’s Department. In that capacity he oversees the Walworth County Sheriff’s Department. By law, custom, de-facto or otherwise, and/or delegation, he has authority over the Sheriff’s Department for all actions at issue in this case. He is responsible for ensuring that policies and practices of the Walworth County Sheriff’s Department comply with federal and state requirements for the treatment of citizens like the Plaintiffs. He is sued in his official capacity for all the constitutional claims at issue arising out of Defendants’ unlawful and racially motivated use of excessive force and detention. At all times relevant to this action, Picknell was acting under color of the law and within the scope of his employment with the WPD or Whitewater.

14. Defendant Walworth County is a municipal corporation in the State of Wisconsin, with principal place of business in Elkhorn. Walworth County manages and oversees the Walworth County Sheriff’s Department. Walworth County is liable for Walworth County Sheriff’s Department and its employees, including Deputy Johnson for their policies, practices and custodians that caused caused harm alleged herein and pursuant to Wis. Stat. §895.46(1)(a), Walworth County is requested to pay or indemnify all judgments, including compensation and punitive damages, attorney’s fees and costs that may be awarded against its officials, employees and agents including Deputy Johnson and all applicable parties named herein.

IV. GENERAL FACTUAL ALLEGATIONS
A. UNLAWFUL ARREST, EXCESSIVE USE OF FORCE, AND DETENTION OF MR. LUX AND MR. NETTLES

15. Plaintiffs re-allege and incorporate by reference the allegations of all preceding paragraphs.

16. On September 20, 2018, at around 2:00 AM, Mr. Lux and Mr. Nettles were walking home to their house at South Fremont Street, 69 Ft North of W Forest Avenue, in the County of Walworth and the City of Whitewater. A Caucasian male, Jack Piper (“Piper”), was walking along with Lux and Nettles.

17. Mr. Lux and Mr. Nettles were not engaging in any illegal activity or violating any laws at this time.

18. At the time Lux, Nettles, and Piper were walking home, Officer Vander Steeg was stationed in his police car in the parking lot of Toppers Pizza.

19. Video from the Police car of Officer Vander Steeg showed Lux, Nettles and Piper crossing the street talking to each other. The video footage shows that the individuals were not fighting, arguing or conducting any illegal activity at that time.

20. That while Lux, Nettles and Piper were walking home, Officer Vander Steeg drove his police car out from the Toppers Pizza parking lot. Video footage from Officer Vander Steeg’s car does not show Lux, Nettles and Piper walking at this time. It was pouring rain at the time.

21. Officer Vander Steeg approached Lux, Nettles, and Piper in his squad car as they were walking home.

22. When Officer Vander Steeg approached Lux, Nettles and Piper they were not screaming, yelling, fighting or conducting any suspicious or illegal activity. They were simply walking home.
23. Officer Vander Steeg proceeded to get out of his squad car and yell at Lux and Nettles. At this time Lux and Nettles were not doing anything illegal.

24. Vander Steeg ordered them to stop or they will be tasered. At this time Lux and Nettles had their backs to the officer and responded that they were not doing anything wrong and put their hands up in the air.

25. Officer Vander Steeg again ordered Lux and Nettles to stop or they will be tasered. Lux and Nettles, stated again they haven’t done anything and put their hands up in the air.

26. Vander Steeg did not threaten to taser Piper or order him to stop and only confronted Lux and Nettles after exiting his vehicle.

27. Upon information and belief, Officer Vander Steeg targeted Lux and Nettles because they were African American.

28. That Lux and Nettles immediately upon the arrival of Vander Steeg put their hands up.

29. When Vander Steeg approached Lux and Nettles, both men turned around to face Vander Steeg, and immediately Vander Steeg put his hands on Lux and forcefully took him to the ground.

30. That while Lux was on the ground, he received various injuries after he was forcefully taken to the ground. That he was kept on the ground for several minutes in multiple locations, handcuffed with his face in water puddles, making it hard to breath.

31. That Vander Steeg’s body camera was turned off immediately after Lux was taken to the ground.

32. Other officers who arrived shortly after also failed to turn on their body cameras to see the abuse received by Lux and Nettles.
33. While Vander Steeg forced Lux to the ground, Nettles attempted to record this excessive use of force on his cell phone. Vander Steeg ordered arriving officers to apprehend Nettles.

34. That Vander Steeg placed Lux into handcuffs with his knee on Lux’s back. Lux’s face was pushed into the ground and water puddle. This continued despite Lux’s pleas stating he didn’t do anything wrong. Lux did not struggle or resist arrest.

35. That shortly after, other officers arrive on the scene including, Stuppy, Zens and Johnson. Vander Steeg pulled Lux up by the handcuffs almost breaking his arm and led him back to the squad car.

36. Officer Zens joined Vander Steeg in escorting Lux to the squad car. Zens and Vander Steeg again took Lux to the ground where he spent approximately five minutes in a puddle of water with both officers forced his face into the ground causing injuries.

37. Video obtained shows Lux forced on the ground a second time near Officer Vander Steeg’s squad car. Lux is shown face down, handcuffed in a puddle of water, again, making it hard for him to breath. This lasted for almost five minutes, while the officers laughed.

38. While Lux was being escort by Vander Steeg and Zens, Nettles began videotaping the incident with his cell phone.

39. One of the officers escorting Lux saw Nettles and shouted “camera” alerting the officer that they were being filmed.

40. At that time Officer Zens stopped escorting Lux and ran at Nettles, forcibly removing the camera, which fell to the ground.

41. Officers Zens and Stuppy forcefully slammed Nettles into the squad car, breaking his tooth on the squad car door.
42. Upon in formation and belief, Nettles was apprehended by Officers Stuppy, Zens and Johnson and was taken to the ground and slammed into the squad car where he lost a tooth due to the force and impact.

43. Officers Zens, Johnson and Stuppy forced Nettles to the ground because he was filming the excessive force being used on Lux. Nettles did not struggle or resist arrest.

44. That Zens, Stuppy, and Johnson used excessive force by nearly breaking Nettles’ arm when they forced his arms behind his back and handcuffed him, then forcing Nettles’ face into the ground and a puddle for several minutes.

45. As a result of the unlawful conduct by the Defendants as set forth herein, Dangelo Lux and Lorenzo Nettles feared for their lives, sustained severe physical and emotional injuries and suffered other losses and damages, including severe pain, emotional distress, medical expenses, and other compensable injuries, in an amount to be determined at a trial of this matter.

46. The conduct, as alleged above and below, of Defendants, and against Mr. Lux and Mr. Nettles, took place in substantial part because they are African Americans.

V. FIRST CLAIM FOR RELIEF AGAINST DEFENDANTS - VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT

47. Plaintiffs reallege and incorporate by reference the allegations of all the preceding paragraphs.

48. At all relevant times herein, the above named Defendants, were “persons” for purpose of 42 U.S.C. § 1983 and acted under color of the state law to deprive Mr. Lux and Mr. Nettles of their constitutional rights.

49. The Equal Protections Clause of the Fourteenth Amendment provided that no state shall “deny to any person within its jurisdiction the equal protection of the laws.”
50. Defendants violated Mr. Lux and Mr. Nettles’ right to equal protection of the laws under the Fourteenth Amendment, by unlawfully discriminating against Mr. Lux and Mr. Nettles on the basis of their race when they, among other things, stopped and questioned Mr. Lux and Mr. Nettles and then utilized unlawful and excessive force against Mr. Lux and Mr. Nettles as they arrested Mr. Lux and Mr. Nettles and further unlawfully detained them.

51. Defendants violated Mr. Lux’s and Mr. Nettles’ right to equal protection of the laws under the Fourteenth Amendment through omission as well. Each Defendant officer on the scene had a duty to intervene on behalf of Mr. Lux and Mr. Nettles, whose constitutional rights were being violated in the presence of the Defendant officers, by others acting under color of state law.

52. The Defendant Officers each failed to intervene or take any other reasonable steps to prevent the deprivation of Mr. Lux and Mr. Nettles’ rights by fellow officers.

53. Based upon the racially motivated actions by the Defendants at the scene, such conduct was motivated by an unlawful discriminatory purpose.

54. Their unlawful conduct achieved a discriminatory effect against Mr. Lux and Mr. Nettles.

55. At all times material, the individual Defendants were acting under color of the statutes, customs, and ordinances of the Whitewater Police Department, and/or Walworth County Sheriff’s Department.

56. That the described conduct of the Defendants as set forth above was a cause of the Plaintiffs’ injuries, losses, and damages as set forth herein.

57. The Defendants, Whitewater and Walworth County, are liable pursuant to Wis. Stat. §895.46 for payment of any judgement entered against the individual employee Defendants in this

...
action because said Defendants were acting within the scope of their employment when they committed the acts described above.

VI. SECOND CLAIM FOR RELIEF AGAINST DEFENDANTS VANDER STEEG, STUPPY, AND JOHNSON – EXCESSIVE FORCE

58. Plaintiffs reallege and incorporate by reference the allegations of all the preceding paragraphs.

59. At all relevant times herein, the above-named Defendants were “persons” for purposes of 42 U.S.C. §1983 and acted under color of state law to deprive Mr. Lux and Mr. Nettles of their constitutional rights.

60. At all times material hereto, the Defendants used unnecessary, excessive force, including but not limited to grabbing, tackling, injuring their necks and face, kneeling on Plaintiffs in the back, pushing their faces into water puddles, where both had difficulties breathing, stomping on them, and standing on their legs.

61. That at the time the Defendants used excessive force on Mr. Lux and Mr. Nettles who posed no threat of death or serious bodily harm to the officers or anyone in the area.

62. That the Defendants’ conduct constituted excessive force without cause or justification in violation of Mr. Lux and Mr. Nettles Fourth Amendment Rights as incorporated by the Fourteenth Amendment and/or his equal protection rights guaranteed by the same amendment.

63. At all times material, the Defendants were Whitewater police officers or employed by the Walworth Sheriff’s department acting under color of the statutes, customs, ordinances, and usage of the Whitewater and Whitewater police department, Walworth County, and Walworth Sheriff’s department and were acting in the scope of their employment.
64. That the described conduct of the Defendants as set forth above was a cause of the Plaintiffs’ injuries, losses, and damages as set forth herein.

65. The Defendants, Whitewater and/or Walworth County, are liable pursuant to Wis. Stat. § 895.46 for payment of any judgment entered against the individual employee Defendants in this action because said Defendants were acting within the scope of their employment when they committed the acts described above.

VII. THIRD CLAIM FOR RELIEF AGAINST DEFENDANTS VANDERSTEEG, STUPPY, AND JOHNSON – UNLAWFUL ARREST

66. Plaintiffs reallege and incorporate by reference the allegations of all the preceding paragraphs.

67. At all relevant times herein, the above-named Defendants were “persons” for purposes of 42 U.S.C. § 1983 and acted under color of state law to deprive Mr. Lux and Mr. Nettles of their constitutional rights.

68. Defendants arrested Mr. Lux and Mr. Nettles.

69. Defendants did not have probable cause to arrest Mr. Lux and Mr. Nettles because at no time could Mr. Lux and Mr. Nettles’ actions have led any of the Defendants to reasonably believe that probable cause existed that Mr. Lux and Mr. Nettles committed a crime.

70. That Defendants’ conduct constituted a false arrest or unreasonable seizure and search of their person in violation of Mr. Lux and Mr. Nettles Fourth Amendment Rights as incorporated by the Fourteenth Amendment and/or their equal protection rights guaranteed by that same amendment.

71. At all times material, the Defendants were Whitewater police officers and/or employed by the Walworth County sheriff’s department acting under color of the statues, customs,
ordinances, and usages of Whitewater and Whitewater police department and Walworth County sheriff’s department and were acting in the scope of their employment.

72. That the described conduct of the part of the Defendants as set forth above was a cause of the Plaintiffs’ injuries, losses, and damages as set forth herein.

73. The Defendants Whitewater and Walworth County, are liable pursuant to Wis. Stat. §895. 46 for payment of any judgement entered against the individual employee Defendants in this action because said Defendants were acting within the scope of their employment when they committed the acts described above.

VIII. FOURTH CLAIM FOR RELIEF AGAINST DEFENDANTS VANDER STEEG, STUPPY, AND JOHNSON – SECTION 1983 FAILURE TO INTERVENE

74. Plaintiffs reallege and incorporate by reference the allegations of all the preceding paragraphs.

75. By the time Defendants Vander Steeg, Johnson, and Stuppy all arrived on the scene, Mr. Lux and Mr. Nettles committed no crime and there was no reason to suspect that they were about to commit a crime, or in the process of committing any crime.

76. Before Mr. Lux and Mr. Nettles suffered from the unlawful abuse and excessive use of force described above, the individual Defendants individually and collectively, had many opportunities to intervene and prevent all the injuries and losses Mr. Lux and Mr. Nettles suffered as a result of the unlawful conduct and excessive use of force.

77. Before Mr. Lux and Mr. Nettles suffered from an arrest without probable cause, as described above, the individual Defendants had many opportunities to intervene and prevent the injuries Mr. Lux and Mr. Nettles suffered as a result of the unlawful arrest without probable cause.
78. At the moment Mr. Lux was ordered or pushed face down into the puddle of water for multiple seconds and Mr. Nettles was struck head first into a car or curb, as described more fully above, some of the Defendant officers including Stuppy and Johnson could have intervened to prevent any of Mr. Lux and Mr. Nettles’ injuries and constitutional deprivations.

79. The unlawful misconduct described in this claim was also undertaken pursuant to the defacto policy and practice of the City of Whitewater and County of Walworth as described below.

80. As a result of the individual Defendants Officers’ failure to intervene, and the Whitewater, County of Walworth policies and practices, written or otherwise, Mr. Lux and Mr. Nettles suffered injuries losses and damages set forth herein.

81. The Defendant City of Whitewater and County of Walworth are liable pursuant to Wis. Stat. §895.46 for payment of any judgement entered against the individual employee Defendants in this action because said Defendants were acting within the scope of their employment when they committed the acts described above.

IX. FIFTH CLAIM FOR RELIEF – MONELL CLAIM

82. The Plaintiffs reallege and incorporate by reference the allegations in the preceding paragraphs.

83. The acts of the individual Defendants, including unlawfully arresting Mr. Lux and Mr. Nettle, and almost drowning Mr. Lux without any justification, was done accordance with the Whitewater and Walworth County and its Police Department’s de-facto policy, regulation, decision or custom condoning excessive force in executing arrests, false arrests, and/or otherwise violating person’s equal protection rights, including by the City’s/ County’s or in this case to date, Defendants and Picknell’s failure to adequately discipline the Defendants officers for such
violations. That these respective defacto policies were officially adopted, expressly or implicitly, or
promulgated or practices or ratifies by the Whitewater/ Walworth County, through their Chief of
Police Raap and Sheriff Picknell, and such constitute a defacto governmental customs in such
department, even though such customs may not have received written formal approval by the City/
County, and even though such defacto policies are inconsistent with or even violate Whitewater/
Walworth County’s written policies.

84. This official or defacto policy or custom of utilizing excessive force and/or violating
person’s equal protection rights permitted encouraged, tolerated and ratified the actions of
Defendants Vander Steeg, Stuppy, and Johnson, all in malicious or reckless disregard or with
deliberate indifference to Mr. Lux and Mr. Nettles’ Fourth and Fourteenth Amendment rights by,
among others, the Defendant Chiefs’ failure to adequately discipline the officers for their unlawful
conduct and not just for failing to supervise the situation.

85. That this official or defacto policy and custom of utilizing excessive force and/ or
violating person’s equal protection rights arose and/or was allowed to continue as a result of, among
others the Whitewater and the Whitewater police department/ Walworth county and Walworth
Sheriff’s Departments failure to adequately supervise, discipline, and/or train its employees. Upon
information and belief, some or all of the individual Defendants and other Whitewater Police
officers and Walworth sheriff’s deputies had previously forced individuals to the ground in an
unjustified and excessive manner or had executed arrests against individuals in an unjustified
manner, without being adequately disciplines and/or properly trained.

86. That the described conduct on the part of all the Defendants, including Whitewater
Chief of Police Raap and Walworth Sheriff Picknell, in their official capacity, was a cause of the
plaintiff’s injuries, losses and damages as set forth herein.
87. The Defendants Whitewater and Walworth County are liable pursuant to Wis. Stat. § 895.46 for payment of any judgement entered against the individual employee Defendants in this action because said Defendants were acting within the scope of their employment when they committed the acts described above.

X. SIXTH CLAIM FOR RELIEF

88. Plaintiffs reallege and incorporate by reference all the allegations in the preceding paragraphs.

89. That the above described conduct of all the individual Defendants was unlawful, extreme, malicious, outrageous and/or intentional.

90. That such conduct was intended to cause Mr. Lux and Mr. Nettles unnecessary and severe personal physical and psychological and emotional injuries.

91. That such conduct on the part of all the individual Defendants was a cause of the severe personal injuries, physical and psychological and emotional, suffered by Mr. Lux and Mr. Nettles.

92. At all times material hereto, the individual Defendants acted maliciously and/or with reckless disregard and/or with deliberate indifference toward Mr. Lux and Mr. Nettles or in an intentional disregard of their rights, such as to subject all the individual Defendants to punitive damages.

93. The Defendants Whitewater and Walworth County is liable pursuant to Wis. Stat. § 895.46 for payment of any judgement entered against these individual employee Defendants in this action because said Defendants were acting within the scope of their employment when they committed the acts described above.
WHEREFORE, the Plaintiffs demand judgement against the Defendants, jointly
and severally, as follows:

a. Against Defendants Vander Steeg, Stuppy, Zens, and Johnson in their
   individual capacities, for compensatory damages, for the violation of Mr. Lux
   and Mr. Nettles’ rights, as set forth above, in an amount to be determined as a
   trial of this matter.

b. Against Defendant Chief Rapp and Sheriff Picknell in their official capacity, for
   compensatory damages for the violation of Mr. Lux and Mr. Nettles’ rights, as
   set forth above, in the amount to be determined at a trial of this matter.

c. Against Defendant Officer Vander Steeg for punitive damages for the violation
   of Mr. Lux and Mr. Nettles’ rights, as set forth above, in an amount to be
   determined as a trial of this matter.

d. Against Defendant Officer Stuppy for punitive damages for the violation of Mr.
   Lux and Mr. Nettles’ rights, as set forth above, in an amount to be determined
   as a trial of this matter.

e. Against Defendant Officer Johnson for punitive damages for the violation of Mr.
   Lux and Mr. Nettles’ rights, as set forth above, in an amount to be determined
   as a trial of this matter.

f. Against Defendant City Whitewater and County of Walworth for its liability
   pursuant to Wis. Stat. §895.46 to indemnify the individual Defendants in an
   amount to be determined at a trial of this matter;

g. For all costs, disbursements and actual attorney’ fees pursuant to 42 U.S.C.A. §
   1988, and for such other relief as the Court deems just and equitable.
PLAINTIFFS HEREBY DEMAND A JURY TRIAL OF THIS MATTER ON ALL ISSUES
SO TRIABLE.

Dated at Wauwatosa, Wisconsin this 13th day of July, 2020.

JUDGE LANG & KATERS, LLC
Attorney for Plaintiffs’

By: /s/ David J. Lang
    David J. Lang
    State Bar No. 01001218
    Kevin G. Raasch
    State Bar No. 1100196

MAILING ADDRESS
8112 W. Bluemound Road, Suite 101
Wauwatosa, WI 53213
Telephone: (414) 777-0778
Fax: (414) 777-0776