1. October 19, 2020 Executive Committee Meeting Agenda
   Documents:
   
   OCTOBER 19, 2020 EXECUTIVE COMMITTEE AGENDA.PDF

2. October 19, 2020 Executive Committee Packet
   Documents:
   
   OCTOBER 19, 2020 EXECUTIVE COMMITTEE PACKET.PDF
County Board Executive Committee
MEETING NOTICE
Monday, October 19, 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/7d5ede32cc3f439587fb0bbf5ef5d9131d].

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.

A G E N D A

Note: all agenda items are subject to action.

1. Call to order
2. Roll call of committee members
3. Agenda withdrawals, if any
4. Agenda approval
5. Approval of Minutes
   a) September 14, 2020 Executive Committee Meeting (pp. 2-4)
6. Public Comment Period
7. Consent Items – expense/mileage reimbursement claims submitted by:
   a) Rick Stacey, County Board Supervisor, in the amount of $31.74 (pp. 5-6)
8. Appointments. Recommendations regarding County Administrator’s nominations:
   a) Aging & Disability Resource Center Board – re-appointment of Kit Deubel (pp. 7-9)
   b) Board of Adjustment – re-appointment of Franklin Jones as first alternate (pp. 10-12)
   c) Health & Human Services Board – re-appointment of Monica Los (pp. 13-14)
   d) Park Committee – re-appointment of Merilee Holst and Mariette Nowak (pp. 15-19)

9. Reports/announcements by Chairperson

10. Set/confirm next meeting date and time – Monday, November 16, 2020 at 10:00 a.m.

11. Claims and litigation. The committee may discuss the following topic(s) in open session. The committee may convene in closed session pursuant to the exemption contained in Section 19.85(1)(g) of the Wisconsin Statutes, “conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved,” relative to the items listed below:

   a) Claim – Summons & Petition for Writ of Certiorari and Declaratory Relief – Delavan Lake Sanitary District (pp. 20-39)

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

12. Adjournment

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

Posted: October 15, 2020
Memorandum

To: Walworth County Executive Committee

From: Mark W. Luberda, County Administrator

Date: October 15, 2020

RE: October 19, 2020 Executive Committee Meeting

Consent Items. Expense and mileage reimbursement claims submitted by County Board Supervisor Rick Stacey is included on the agenda for approval.

Appointments

Aging & Disability Resource Center (ADRC) Governing Board. I am forwarding to you the nomination of Kit Deubel. The ADRC Governing Board recommended this appointment. This is a re-appointment to a three-year term to begin upon County Board confirmation and end on June 30, 2023.

Board of Adjustment. I am forwarding the nomination of Franklin Jones to serve as a first alternate member of the Board of Adjustment. Our Code of Ordinances require Board of Adjustment applicants be interviewed by the Executive Committee. Mr. Jones has been invited to attend our meeting. This is a re-appointment to a three-year term to begin upon County Board confirmation and end on June 30, 2023.

Health and Human Services (HHS) Board. I am forwarding to you the nomination of Monica Los for re-appointment to the HHS Board. Our Code of Ordinances require HHS Board applicants be interviewed by the Executive Committee. Ms. Los has been invited to attend our meeting. This is a re-appointment to a three-year term to begin upon County Board confirmation and end on May 31, 2023.

Park Committee. I am forwarding the nominations of Merilee Holst and Mariette Nowak for re-appointments to the Park Committee. Both are for two-year terms to begin upon County Board confirmation and end on June 30, 2022.

Claims and litigation. Your agenda includes 1 claim matter for discussion in closed session which will be addressed by Corporation Counsel, Michael P. Cotter.

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 was conducted and the following members were present, either in person or by remote attendance: 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 and Ryan Simons.
County staff: County Administrator Mark W. Luberda; Corporation Counsel/Director of Land Use and Resource Management (LURM) Michael Cotter; Director-Public Works Richard Hough; Sheriff Kurt Picknell; Captain of Communications Todd Neumann; and Finance Director Jessica Conley.

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

On motion by Supervisor Holt, second by Vice Chair Kilkenny, the minutes of the July 20, 2020 Executive Committee Meeting were approved.

Public Comment – There was none.

Consent Items – expense/mileage reimbursement claims submitted by:
7a) Rick Stacey, County Board Supervisor, in the amount of $31.74
   Supervisor Russell offered a motion, second by Supervisor Pruessing, to approve the expense/mileage reimbursement claim for Rick Stacey in the amount of $31.74. Motion carried 5-0.

Appointments
8a) Appointment to Southeastern Wisconsin Regional Planning Commission (SEWRPC)
   Supervisor Russell offered a motion, second by Vice Chair Kilkenny, to appoint Brian Holt as one of the County’s Southeastern Wisconsin Regional Planning Commission (SEWRPC) delegates. Motion carried 5-0.

Unfinished Business
9a) Radio System Replacement for the Sheriff’s Office
   Sheriff Kurt Picknell and Captain of Communications Todd Neumann gave a brief overview of the Radio System Replacement for the Sheriff’s Office, thus far, and provided their recommendation as to a course of action. See pages 12-21 for more information. Discussion ensued. Neumann concluded the discussion by stating Walworth County currently has a contract with Ellert and Associates (now True North). Before the County executes a contract with a vendor, a new contract will need to be drawn up between Walworth County and True North relative to Phase IV – The Project Management Phase. Chair Weber expressed his appreciation for the efforts put forth and suggested moving forward with the project.

New Business
10a) Wisconsin County Association (WCA) Annual Business Meeting and Review of WCA Proposed Policy Resolutions
   County Administrator Mark W. Luberda gave a brief overview of the advisory resolutions that are to be considered at the Wisconsin Counties Association (WCA) annual business meeting later this month. County Board Chair Nancy Russell will be casting Walworth County’s vote on these resolutions. Discussion then focused on the process the County has used over the last couple of years, which was to bring the packet before the Executive Committee for review in advance of the county representative participating in the meeting. Russell briefly
explained her request for the WCA to address Resolutions 6, 7, 8 and 9 separately. Further discussion took place relative to the actions of the WCA, once the resolutions have been separated out. No additional guidance was given to Russell other than previously provided, which is to act on behalf of Walworth County at her discretion.

10b) Wisconsin Department of Administration Preliminary Estimate of the January 1, 2020 Population for Walworth County
Vice Chair Kilkenny pointed out the largest increases are from the City of Whitewater, City of Lake Geneva, Village of East Troy, and Village of Mukwonago, which are bedroom communities and that basically the unincorporated areas have remained the same or decreased slightly. **Vice Chair Kilkenny offered a motion, second by Supervisor Pruessing, to accept the Wisconsin Department of Administration Preliminary Estimate. Motion carried 5-0.**

10c) Bayfield County Resolution No. 2020-065 – To Conduct Countywide Advisory Referendum on Creation of Nonpartisan Procedure for the Preparation of Legislative and Congressional Redistricting Plans and Maps
Supervisor Russell announced that Supervisor Jerry Grant requested this resolution be brought before the Executive Committee and stated it is too late to act on this. Russell reported Resolutions 43, 44, 45, and Walworth County Res. No. 46 included within the WCA packet all contain the same language as the Bayfield resolution and suggested placing the it on file. **Supervisor Russell offered a motion, second by Supervisor Holt, to place Bayfield County Res. No. 2020-065 on file. Motion carried 5-0.**

10d) 2020 Goals for Administrator
Administrator Luberda gave a brief overview of the Slate of Potential Goals for the County Administrator During 2020 that was created at the request of County Board Chair Nancy Russell and offered them to the Executive Committee for their consideration. Vice Chair Kilkenny stated the goals are vague compared to those presented by former Administrator Bretl, but there is the ability to review, measure, and judge in the general sense. Luberda stated he is the County Administrator, but most of the work is happening at the department level. He accepts the concept that department heads may be brought in for a closed session discussion relative to a performance evaluation. **Vice Chair Kilkenny offered a motion, second by Supervisor Holt, to approve the Slate of Potential Goals for the County Administrator During 2020. Supervisor Russell offered an amendment to the motion, which is to review the goals and perform the evaluation process at the November Executive Committee meeting. Vice Chair Kilkenny and Supervisor Holt approved the amendment. Motion carried 5-0.**

Supervisor Holt departed the meeting at 10:57 a.m.

Supervisor Ingersoll referred back to Item 10a and inquired about the voting process at the WCA convention. Administrator Luberda stated he believes the resolutions are passed and become part of the slate of work for the WCA, their staff, and their legislative efforts in the 2020-2021 and become part of their platform. In summary, the committees already stated what they recommend and you are acting on those committees recommendation as to their goals for the next year. Russell said the WCA uses the lobbying group to lobby the legislature for their platform.

Supervisor Holt returned to the meeting at 10:59 a.m.

**Reports/announcements by Chairperson** – There was none.

**Confirmation of next meeting date and time:** The next meeting was confirmed for Monday, October 19, 2020 at 10:00 a.m.

**Claims and Litigation**
The Committee convened in closed session at approximately 11:00 a.m. on motion and second by Vice Chair Kilkenny and Supervisor Pruessing 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 roll call vote was conducted and all members present voted “aye.” County Administrator Mark W. Luberda, Corporation Counsel/Director of Land Use and Resource Management Michael Cotter, Director-Public Works Richard Hough, and Supervisor Ingersoll (via telephone) remained in closed session.

- a) Claim for Vehicle Damage – Natasha Zwijacz
- b) Notice of Claim – WSPR Enterprises, LLC

The committee reconvened in open session at 11:20 a.m. on motion and second by Vice Chair Kilkenny and Supervisor Holt.

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

Adjournment

On motion and second by Vice Chair Kilkenny and Supervisor Russell, Chair Weber adjourned the meeting at 11:21 a.m.

Submitted by Patricia Sommers, Administrative Assistant. Meeting minutes are not considered final until approved by the Executive Committee at the next regularly scheduled meeting.
## Form 1-651-A: 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 / Tools</th>
<th>Lodging</th>
<th>Breakfast</th>
<th>Lunch</th>
<th>Dinner</th>
<th>*Depart Time from Wal Cry OR Home</th>
<th>*Return Time to Wal Cry OR Home</th>
<th>Overnight stay Y / N</th>
<th>Misc Exp</th>
<th>Total Non-Mileage</th>
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<tbody>
<tr>
<td>6/10/20</td>
<td>Government Center - sign zoning plats (round trip from home)</td>
<td>100 W. Walworth St., Elkhorn</td>
<td>27.6</td>
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**Total Mileage:** 27.6  
**Total Parking:** 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 by the County or any other source.

Submit with claims.

Claimant’s Signature: _____________________________  Date: ____________

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: ____________

Print Supervisor’s Name: _____________________________

**General Notes:**

---

**Non-Mileage** 53325  
**Mileage (50.575)** 53310  
**Total Travel Expense:** 15.87

**Less Advances:** -

**Total Reimbursement:** 15.87

**Acct#** 1010-51650  $ 15.87

**Acct#** -  $ -

**Acct#** -  $ -

**Acct#** -  $ -
Form 1-651-A: 2020 BUSINESS EXPENSE

REIMBURSEMENT FORM

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<th>Date of Expense</th>
<th>Description</th>
<th>Destination / Location</th>
<th>Mileage</th>
<th>Parking at Hotel</th>
<th>Lodging</th>
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<th>*Return Time to Wal Cry OR Home</th>
<th>Overnight stay Y/N</th>
<th>Misc Exp</th>
<th>Total Non-Mileage</th>
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<td>10/02/20</td>
<td>Government Center - sign zoning plans (round trip from home)</td>
<td>100 W. Walworth St., Elkhorn</td>
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* 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 part of this claim was prepared free of charge or covered by the summer 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 Date

Supervisor's Signature Date

Print Supervisor's Name

TOTAL MILEAGE 27.6 0.00 TOTAL PARKING

Non-Mileage 53325 -

Mileage ($0.575) 53310 15.87

Total Travel Expense 15.87

Less Advances -

Total Reimbursement 15.87

Acct# 1010-31650 $ 15.87

Acct# $ -

Acct# $ -

Acct# $ -
Nomination for Committee/Board/Commission Appointment

Committee: Aging & Disability Resource (ADRC) Governing Board
Nominee: Kit Deubel
Residence: City of Elkhorn

Submitted by: Mark W. Luberda, County Administrator
Authority: Section 59.18, Wisconsin Statutes

Who will the nominee replace? The nominee is the incumbent.

When did/does the incumbent’s current term expire? June 30, 2020

Was this vacancy advertised? 

Comment: Upon confirmation, Ms. Deubel would be appointed for a three-year term which end on June 30, 2023.

For incumbents, committee attendance, if known:
WALWORTH COUNTY
NOTICE OF INTEREST TO SERVE AS A CITIZEN REPRESENTATIVE

Full Name: Catherine M. Deuel

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<tr>
<th>Address of Residence:</th>
<th>Mailing Address: (if different than Residence)</th>
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Contact Information:

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Please complete the following statements.

I request appointment to the following board(s), committee(s), or commission(s):

ADRC

I am interested in serving as a citizen representative for the following reason(s):

I am an aging, disabled, former medical professional (LPN), a female, and recipient of several assistance programs. I hoped my life experiences might be of assistance to others in the community in a similar circumstance.

Related to this appointment, I possess the following skill(s), qualification(s) or experience:

**extremely poor at electronic devices!**
NOTICE OF INTEREST TO SERVE AS A CITIZEN REPRESENTATIVE, Page 2

Per Section 2-238 of the Code of Ordinances, please answer the following Question:
Do you work or live in Walworth County? Include in your answer the name of the town, village, or city in which you live.

[Redacted]

since 1991.

Per Section 2-237(a)(2) of the Code of Ordinances, citizen members are subject to successful completion of a background check. It includes that “a citizen shall be excluded from service if he or she has been convicted of a crime substantially related to the position.” Criminal history is generally obtained from the Wisconsin Department of Justice online record check system. By providing my birthdate below, I authorize and consent to the completion of the record check and understand that the information is used only in consideration of this application and will not be further disseminated for any purpose.

DATE OF BIRTH: [Redacted]

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

Catherine Rehbein *[Signature of Applicant] 11/1/20 [Date]

Feel free to attach any additional documentation to this form. Appointments require confirmation by the County Board. Some appointments require an interview before the Executive Committee.

*Catherine is my legal name, but even my mother never used it. I have always been called “Kit”

RECEIVED
OCT 01 2020

WALWORTH COUNTY ADMINISTRATION
Nomination for Committee/Board/Commission Appointment

Committee: Board of Adjustment

Nominee: Franklin Jones

Residence: Town of Delavan

Submitted by: Mark W. Luberda, County Administrator

Authority: Section 59.18, Wisconsin Statutes

Who will the nominee replace? The nominee is the incumbent.

When did/does the incumbent’s current term expire? June 30, 2020

Was this vacancy advertised? 

Comment: Upon confirmation, Mr. Jones would be appointed as the 1st alternate for a three-year term which will end on June 30, 2023.

For incumbents, committee attendance, if known:
WALWORTH COUNTY
NOTICE OF INTEREST TO SERVE AS A CITIZEN REPRESENTATIVE

Full Name: Franklin B. Jones

Address of Residence: 

Mailing Address: (if different than Residence)

Contact Information:
Home Phone: 
Cell Phone: 

Email Address: (below)

Please complete the following statements.

I request appointment to the following board(s), committee(s), or commission(s):

To serve on the County Board of Adjustment

I am interested in serving as a citizen representative for the following reason(s):

So that I can provide a community service that utilizes my numerous years of service to the Delavan Town Board and the Delavan Township Planning Commission.

Related to this appointment, I possess the following skill(s), qualification(s) or experience:

See above and for education I have a BSME degree from UWM in Mechanical Engineering (1963)
NOTICE OF INTEREST TO SERVE AS A CITIZEN REPRESENTATIVE, Page 2

Per Section 2-238 of the Code of Ordinances, please answer the following Question:
Do you work or live in Walworth County? Include in your answer the name of the town, village, or city in which you live.

Yes, Town of Delavan

Per Section 2-237(a)(2) of the Code of Ordinances, citizen members are subject to successful completion of a background check. It includes that “a citizen shall be excluded from service if he or she has been convicted of a crime substantially related to the position.” Criminal history is generally obtained from the Wisconsin Department of Justice online record check system. By providing my birthdate below, I authorize and consent to the completion of the record check and understand that the information is used only in consideration of this application and will not be further disseminated for any purpose.

DATE OF BIRTH: [redacted]

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

Signature of Applicant: [redacted]  Date: 10/7/2020

Feel free to attach any additional documentation to this form. Appointments require confirmation by the County Board. Some appointments require an interview before the Executive Committee.

RECEIVED
OCT 09 2020

WALWORTH COUNTY ADMINISTRATION
Nomination for Committee/Board/Commission Appointment

Committee: ____________________________  Health & Human Services Board

Nominee: ____________________________  Monica Los

Residence: ____________________________  City of Whitewater

Submitted by: ____________________________  Mark W. Luberda, County Administrator

Authority: ____________________________  Section 59.18, Wisconsin Statutes

Who will the nominee replace? ____________________________  The nominee is the incumbent.

When did/does the incumbent’s current term expire? ____________________________  May 31, 2020

Was this vacancy advertised? ____________________________

Comment: ____________________________  Upon confirmation, Ms. Los would be appointed for a three-year term which will end on May 31, 2023.

For incumbents, committee attendance, if known:

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

Full Name: Monica N Los

Address of Residence: 

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Please complete the following statements. (Note: The space will expand as needed.)

I request appointment to the following board(s), committee(s), or commission(s):
Health and Human Services Board

I am interested in serving as a citizen representative for the following reason(s):
I would like to continue serving as citizen representative for another term because I believe the work of the committee is very important and I feel I can contribute to the discussion and the work.

Related to this appointment, I possess the following skill(s), qualification(s) or experience:
I work in health care serving Walworth County residents, I am bilingual, and have a master’s degree in Public Administration and Non-Profit Management.

Per Section 2-238 of the Code of Ordinances, please answer the following Question:
Do you work or live in Walworth County? Include in your answer the name of the town, village, or city in which you live.
I live and work in Walworth County. I work at [Redacted] and live on [Redacted]

Per Section 2-237(a)(2) of the Code of Ordinances, citizen members are subject to successful completion of a background check. It includes that “a citizen shall be excluded from service if he or she has been convicted of a crime substantially related to the position.” Criminal history is generally obtained from the Wisconsin Department of Justice online record check system. By providing my birthdate below, I authorize and consent to the completion of the record check and understand that the information is used only in consideration of this application and will not be further disseminated for any purpose.

DATE OF BIRTH: [Redacted]

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

Signature of Applicant: [Signature]  Date: 10/05/2020

Feel free to attach any additional documentation to this form. Appointments require confirmation by the County Board. Some appointments require an interview before the Executive Committee.
Nomination for Committee/Board/Commission Appointment

Committee: Park Committee

Nominee: Merilee M. Holst

Municipality of Residence: Village of Fontana

Submitted by: Mark W. Luberda, County Administrator

Authority: Section 59.18, Wisconsin Statutes

Who will the nominee replace? The nominee is the incumbent.

When did/does the incumbent’s current term expire? June 30, 2020

Was this vacancy advertised? 

Comment Upon confirmation, Ms. Holst would be appointed for a two-year term which will expire on June 30, 2022.

For incumbents, committee attendance, if known:

________________________________________

________________________________________

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

Name: MERILEE M. HOLST
Mailing Address: ______________________________________________________________________

Date: 06/15/2020
Phone: _____________________________________________________________________________
Email: _____________________________________________________________________________

I reside in: [ ] the Town of ________________________________
[ ] the Village of ________________________________
[ ] the City of ____________________________________

JUN 15 2020

RECEIVED

WALWORTH COUNTY ADMINISTRATION

Please consider me for appointment to: Walworth County Park Committee

___________________________________________________________________________________

I am interested in serving as a citizen representative because: As a current Citizen Member of the Walworth County Park Committee and an individual with an interest in providing quality outdoor experiences to the members of the public, I want to continue to support the County and its parks in providing those quality experiences. Special skills, experience or qualifications I possess related to this appointment are:

___________________________________________________________________________________

Refer to the attached:

___________________________________________________________________________________

Check one of the following:

[ ] I am a resident of Walworth County and reside in the appropriate jurisdiction to serve on the board or commission for which I am applying.

[ ] I am not a resident of Walworth County.

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

___________________________________________________________________________________

Signature of Applicant

Date

Feel free to attach any additional documentation to this form.
Walworth County
Notice of Interest To Serve As A Citizen Representative

Merilee M. Holst

Currently serve as a Citizen member of the Walworth County Park Committee. Retired board member of the following applicable organizations: Delavan Lake Improvement Association; Friends of the White River County Park; and the Geneva Lake Conservancy. Active supporter of organizations working with Walworth County and its parks: Friends of the White River County Park; Kettle Moraine Land Trust.
Nomination for Committee/Board/Commission Appointment

Committee:  Park Committee

Nominee:  Mariette Nowak

Municipality of Residence:  Town of Troy

Submitted by:  Mark W. Luberda, County Administrator

Authority:  Section 59.18, Wisconsin Statutes

Who will the nominee replace?  The nominee is the incumbent.

When did/does the incumbent’s current term expire?  June 30, 2020

Was this vacancy advertised?   

Comment  Upon confirmation, Ms. Holst would be appointed for a two-year term which will expire on June 30, 2022.

For incumbents, committee attendance, if known:  

18 of 39
WALWORTH COUNTY
NOTICE OF INTEREST TO SERVE AS A CITIZEN REPRESENTATIVE

Name: Mariette Nowak

Mailing Address: 

Date: 6/15/2020

Phone: 

Email: 

☑️ I reside in: the Town of Troy

☐ the Village of 

☐ the City of 

Please consider me for appointment to: Park Committee

I am interested in serving as a citizen representative because: I am passionate about parks, natural areas, and the preservation of native plants and wildlife. I also served as Director of Web Nature Center in Milwaukee County Park.

Special skills, experience or qualifications I possess related to this appointment are: Master's degree in botany and zoology Author of "Birdscoping in the Midwest"

Check one of the following:

☒ I am a resident of Walworth County and reside in the appropriate jurisdiction to serve on the board or commission for which I am applying.

☐ I am not a resident of Walworth County.

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

Mariette Nowak 6/15/2020
Signature of Applicant Date

Feel free to attach any additional documentation to this form.
STATE OF WISCONSIN

DELAVAN LAKE SANITARY DISTRICT
2990 County Road F
Delavan, WI 53115


Plaintiff,

v.

WALWORTH COUNTY BOARD OF ADJUSTMENT and WALWORTH COUNTY,
100 W Walworth Street
Elkhorn, WI 53121

Defendant.

SUMMONS

You are hereby notified that the Plaintiff named above have filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 20 (twenty) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 1800 County Trunk NN, Elkhorn, WI 53121 and to Stan Riffle, Municipal Law & Litigation Group, Plaintiff’s attorneys, whose address is 730 N. Grand Avenue, Waukesha, Wisconsin 53186. You may have an attorney help or represent you.

If you do not provide a proper answer within 20 (twenty) days of receiving this summons, the court may grant judgment against you for the award of money or other legal action requested
in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 30th day of September 2020.

MUNICIPAL LAW & LITIGATION GROUP, S.C.  
Attorneys for Delavan Lake Sanitary District

By:  

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STATE OF WISCONSIN

CIRCUIT COURT

WALworth COUNTY

DELAvan LAKE SANiTARy DISTRICT
2990 County Road F S
Delavan, WI 53115

Plaintiff,

v.

WALworth COUNTY BOARD OF ADJUSTMENT and WALworth COUNTY,
100 W Walworth Street
Elkhorn, WI 53121

Defendant.

PETITION FOR WRiT OF CERTIORARI
AND DECLARATORY RELIEF

NOW COMES the above-named Plaintiff, Delavan Lake Sanitary District, by its attorneys, Municipal Law & Litigation Group, S.C., and as and for a Complaint against the above-named Defendant, Walworth County, alleges and show the Court:

PARTIES

1. The Plaintiff, Delavan Lake Sanitary District (the “District”), is a municipal corporation organized and existing under Chapter 60 of the Wisconsin Statutes, with its principal place of business at 2990 County Road F, Delavan, WI 53115, in Walworth County, State of Wisconsin.
2. The Defendant, Walworth County Board of Adjustment (the “BOA”), is a Board created by sec. 59.694 of the Wisconsin Statutes and sec. 74-237 of the Walworth County Zoning Ordinance, with its principal place of business at 100 W Walworth Street, Elkhorn, WI 53121, in Walworth County, State of Wisconsin.

3. The Defendant, Walworth County (the “County”), is a body corporate organized and existing under Chapter 59 of the Wisconsin Statutes, with its principal place of business at 100 W Walworth Street, Elkhorn, WI 53121, in Walworth County, State of Wisconsin.

BACKGROUND

4. The District’s sanitary sewer system runs within the View Crest Subdivision and contains a gravity sanitary sewer and a 16-inch force main from Lift Station 4, which traverses several manholes that provide access to the sewer piping.

5. The District sanitary sewer system within the View Crest Subdivision is located within platted rights-of-way of the View Crest Subdivision, consistent with the District’s easement.

6. The District has attempted to access its system via an unimproved path which crosses approximately 300 feet of wetland, which was mapped by SEWRPC in 2014.

7. The unimproved path is often either saturated or flooded, rendering it unusable when wet, and impossible to traverse with the heavy trucks and equipment required to maintain the sanitary sewer system.

8. The soils in the unimproved path are uniquely weak and unable to support repair equipment, which has a 16,000-pound loading on a 200-square inch contact area.

9. The bearing capacity of the soil measured by hand borings is less than 1,000 pounds per square foot.
10. The District became increasingly concerned that the District facilities located in the unimproved path were and are in serious danger of failure.

11. The first concern was based upon visual observations of the manholes, which revealed that the manholes were shifting and tilting.

12. The second concern relates to the age of the sewer pipes (nearly 40 years old) – beyond the usual life.

13. The segment of force main at issue is a 3,800 foot-long, 16-inch diameter pipe.

14. This force main sewer pipe is constructed of ductile iron and is lined with cement and mortar.

15. When exposed to hydrogen sulfide, as the piping in question has, its life span is reduced to 30-35 years.

16. The District has experienced a serious problem with another force main sewer pipe in the District near lift station 6, which has been used under the same conditions and required immediate repair to prevent complete failure.

17. Based upon the District’s experience with the force main at Lift Station 6, the District investigated the condition of the 3800-foot force main in View Crest, including televising the pipe, and determined this force main needs immediate repair to prevent failure.

18. A break in a force main in would empty sewage in the 3800-foot long pipe and continue to empty sewage from the station until the District could detect the break.

19. The sewage diverted from the force main sewer pipe from such a break would enter the soil sub-surface and would flow on and under the ground and could flow into Delavan Lake, causing significant damage to its ecosystem.
20. Besides the needed repairs to the force main, the District has determined that each manhole in View Crest are leaking and in severe disrepair, requiring new manhole seals, complete grouting, and application of impervious surface sealant.

21. These needed repairs to the manholes and force main require access to the entire length of the District’s easement by large equipment, including an excavator, television truck, dump truck, utility locate trucks, dewatering equipment, and service vehicles, which all have a large soil contact pressure.

22. The installation of a reinforced access path designed to allow heavy equipment to access the easement area is necessary to allow the District to fulfill its function as a municipal utility, to safely and efficiently provide sanitary sewer service to the View Crest Subdivision and the entire District, and to protect the health, safety and welfare of the public and the environment, particularly Delavan Lake and its watershed.

23. To execute the much-needed repairs to the force main and manholes, to accommodate future maintenance on the District’s sanitary sewer system, and to be prepared for any potential future emergencies, the District filed a construction site erosion permit application on February 2, 2017 with Walworth County.

24. The application was for the gravel reinforcement of a grass pathway on platted but undeveloped roads in the Viewcrest Estates Subdivision within an easement located over existing District piping and facilities.

25. The stone reinforced access path proposed was 12 feet wide and matched the ground elevation of the existing surface.

26. The base materials would be stone and sand and return to grass within 2 years.
27. Douglas R. Snyder, P.E., of Baxter & Woodman Engineering completed a full engineering report of the easement path in June of 2017 at the request of the County.

28. Mr. Snyder's report evaluated several industry standard options to determine their viability for the needs of the District.

29. Fabric and Bamboo mats were deemed ineffective because while they lowered the soil contact pressure to a wheel loading of 290 pounds per square foot, this reduction was more than double the amount permitted by County Code at that location and also would not provide a permanent or reliable solution.

30. Timber mats were also deemed ineffective because they would cause excessive damage to the wetlands, including outside of the footprint of the path, and would take several days for installation, which would not be feasible during an emergency and would not provide a permanent or reliable solution.

31. Temporary matting or soil removal and replacement was impossible in this location because the area is too unique, as it is narrow, long, difficult to access, contains several horizontal bends, and contains both an 8-inch gravity sewer and a 16-inch pressure main, and would not provide a permanent or reliable solution.

32. Building a new force main and pump station was considered, as it would reduce the number of manholes and monitoring points, but it was deemed significantly too expensive as it would cost $2 million to install with yearly operating costs of $25,000.

33. The engineering report concluded that avoiding wetland impact would be impossible given the location of the manholes and recommended providing an gravel reinforced access path to
the sanitary sewer, to provide the most feasible solution of protecting the District’s investment and cause the least wetland impact.

34. The area of wetland affected with stone fill with this option was estimated to be 3,527 square feet or .08 acres.

35. Routine sewer and lake monitoring and maintenance can be scheduled to avoid the wet season, but emergencies require immediate attention, necessitating the reinforcement of the access path. Since the sewer is nearly 40 years old, the District expects more emergencies to occur as it continues to age.

36. Simultaneously to the District’s submission of its permit application to the County, it applied for, and was granted, all required permits for the project from both the U.S. Army Corps of Engineers and the Wisconsin Department of Natural Resources.

37. The County did not provide the District with a final determination of the permit application until January 6, 2020, in which they denied the District’s permit application.

38. The County denied the District’s permit application citing three reasons: (1) the proposed activities would take place within the shoreyard setback area; (2) the District did not obtain the required permits; and (3) the proposed path does not comply with the County’s shoreland zoning regulations.

39. The District appealed the County’s permit denial to the Zoning Board of Adjustment on January 24, 2020.

40. The Zoning Board of Adjustment held a hearing for the appeal on May 13, 2020.
41. At this hearing, the District presented its position, along with introducing a voluminous record showing the history of the project and the legal authority governing the permitting process.

42. On May 14, 2020, the Zoning Board of Adjustment refused to make a ruling, instead postponing their decision until the Viewcrest Subdivision Board convened and discuss the proposed path.

43. The Zoning Board of Adjustment held another hearing on September 9, 2020, where the District addressed all outstanding questions or concerns that the Board had and reiterated the legal precedent supporting its position.

44. On September 21, 2020, the District received the Zoning Board of Adjustment’s written decision upholding the County’s denial of the District’s permit application. The decision is attached as “Addendum A”.

45. The BOA stated in its findings that the proposed access path was a structure, but that it was not a structure exempted from shoreland zoning requirements under Wis. Stat. § 59.692(1n) (d).

REQUEST FOR WRIT OF CERTIORARI

46. Plaintiff restates and incorporates by reference the allegations in paragraphs 1-45 of the Complaint.

47. The rules promulgated by the Wisconsin Department of Natural Resources are set forth at NR115 of the Wisconsin Administrative Code. In NR115, at section NR115.04(3), a list of permitted uses within the shoreland zoning districts is stated.
48. That section begins with “within shoreland-wetland zoning districts, counties shall permit the following uses...” That section states that one of the permitted uses is: “the construction and maintenance of ... sewer transmission distribution lines, and related facilities, by public utilities..., which cannot as a practical matter be located outside the wetland, provided that any filling, excavating, ditching or draining necessary for such construction or maintenance is done in a manner that is done to minimize flooding and other adverse impacts upon the natural functions of the wetland”. (emphasis added).

49. Wis. Stat. § 59.692(1n)(d) states that, “a county shoreland zoning ordinance may not prohibit a construction of any of the following structures within the 75-foot setback requirement: ... 5. a utility transmission line, utility distribution line, pole, tower, water tower, pumping station, well pump house cover, private on-site waste water treatment system that complies with chapter 145, and any other utility structure for which no feasible alternative location outside the setback exists and which was constructed and placed using best management practices to infiltrate or otherwise control storm water run-off from the structure.”

50. Section 74-174(3) of the Walworth County Shoreland Zoning Ordinance directly exempts structures servicing utilities from the shoreland regulations, “[a]ll of the following structures are exempt from the shore yard setback standards in sub 1. above: ... d. Utility transmission and distribution line, pole, tower, water tower, pumping station, well pump house cover, private on-site wastewater treatment systems that comply with ch. 145, and other utility structure that have no feasible alternative location outside of the minimum setback and which is constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.”
51. The County has never challenged the fact that there is no other feasible location for the access path.

52. The County has never challenged that the best management practices to control storm water run-off from the structure would be used.

53. Wis. Stat. § 59.693(b)(1), which governs construction site erosion control, states that, “the construction and maintenance of a facility is considered to satisfy the requirements of this section and any county ordinance enacted under this section if any of the following applies:

1. The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.”

54. The County has never challenged that the District has obtained all required WDNR permits for this project.

55. The County zoning ordinances explicitly adopt, recognize and reflect the rules and standards in the state administrative code and statutes.

56. Section 74-39 of the Walworth County Shoreland Zoning Ordinance states that maintenance easements to provide limited right of vehicle ingress/egress to unmanned uses such as utilities, dams, cells towers, renewable energy, sanitary sewers, etc., necessary to provide a needed public service may be reduced to a 15-foot-wide easement. The 15-foot-wide maintenance easement shall be a limited access easement to facilitate repairs and maintenance only. *The limited access easement shall be of adequate soil conditions or surfacing to withstand loads produced by standard equipment and provide limited ingress and egress connecting to a street or other officially approved way.*” [emphasis added].
57. The County has never disputed that the soil conditions are inadequate for access by heavy machinery in its current configuration.

58. Reinforcement of the access path is required so the ground can withstand the loads produced by the heavy equipment during ingress, egress, and maintenance of the sanitary sewer system.

59. Section 74-155 of the Walworth County Shoreland Zoning Ordinance states that, “except for the provisions of any ordinance enacted under Wis. Stats. §§ 59.69, 59.69(7), 59.692, 59.694 or 87.30, relating to shorelands and floodplains which are hereby superseded, it is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements ordinances, rules regulations, or permits previously adopted or issued pursuant to law.”

60. The County’s Shoreland Zoning Ordinance was adopted many years after the District obtained the easement and installed the sewer system. The Ordinance specifically exempts the rights held by the District that pre-dated the Ordinance in Section 74-155.

61. The BOA did not keep within its jurisdiction when it upheld the County’s decision to deny the District’s permit.

62. The BOA decision to uphold the County’s denial of the District’s permit was arbitrary, oppressive, unreasonable and represented its will and not its judgment.

63. The evidence is such that the BOA decision cannot be deemed reasonable.

64. The District needs to access its sanitary sewer equipment to construct, service and maintain its sanitary sewer system.

65. The District is exempt from the County’s zoning and land use ordinances.
66. Based on the facts and authority above, this Court must enter an order vacating the Zoning Board of Adjustment’s Decision and Findings dated September 16, 2020, and remand for further proceedings on the District’s application for a construction site erosion and sediment control permit for the reinforcement of the Access Path under a correct theory of law.

**DECLARATORY JUDGMENT**

67. Plaintiff restates and incorporates by reference the allegations in paragraphs 1-66 of the Complaint.

68. The District has continual need in numerous sections of the system to improve access ways for necessary replacement, repairs and maintenance of the sewer system. Unless the Court addresses the issues involved, the District will constantly be involved with continuing litigation with the County related to County jurisdiction.

69. Wisconsin Administrative Code section NR115.04(3) states, “within shoreland-wetland zoning districts, counties **shall permit** the following uses…” “the construction and maintenance of … sewer transmission distribution lines, and related facilities, by public utilities…, which cannot as a practical matter be located outside the wetland, provided that any filling, excavating, ditching or draining necessary for such construction or maintenance is done in a manner that is done to minimize flooding and other adverse impacts upon the natural functions of the wetland”. [emphasis added].

70. Wis. Stat. § 59.692(1n)(d) states that, “a county shoreland zoning ordinance may not **prohibit** a construction of any of the following structures within the 75-foot setback requirement: … 5. a utility transmission line, utility distribution line, pole, tower, water tower, pumping station, well pump house cover, private on-site waste water treatment system
that complies with chapter 145, and any other utility structure for which no feasible alternative location outside the setback exists and which was constructed and placed using best management practices to infiltrate or otherwise control storm water run-off from the structure.”

71. Wis. Stat. § 59.693(b)(1), which governs construction site erosion control, states that, “the construction and maintenance of a facility is considered to satisfy the requirements of this section and any county ordinance enacted under this section if any of the following applies: 1. The [DNR] has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.”

72. Section 74-154 of the Walworth County Shoreland Zoning Ordinance states the intent of the Ordinance, “it is the general intent of this ordinance to: (10) facilitate the adequate provision of public facilities and utilities.”

73. Section 74-174(3) of the Walworth County Shoreland Zoning Ordinance directly exempts structures servicing utilities from the shoreland regulations, “[a]ll of the following structures are exempt from the shore yard setback standards in sub 1. above: … d. Utility transmission and distribution line, pole, tower, water tower, pumping station, well pump house cover, private on-site wastewater treatment systems that comply with ch. 145, and other utility structure that have no feasible alternative location outside of the minimum setback and which is constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.”

74. County Zoning Code defines the District’s sanitary service utilities as essential services under Section 74-263, “essential services means services provided by public and private
utilities, necessary for the exercise of the principal, accessory, or conditional use or service of the principal, accessory or conditional structure. These services include underground, surface, or overhead gas, electrical, steam water, sanitary sewerage, storm-water drainage, and communication systems and accessories thereto, such as poles, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, conduits, cable, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants but not including buildings. These services may also include privileges in streets under Wis. Stats. § 66.0425 and as amended from time to time.”

75. The District is not only granted authority by the State, it is mandated to ensure that its sanitary sewer system is always in proper working order to serve and protect the public and the waters of the state. The County may not interfere in District projects it determines are required to ensure the health, safety and welfare of District residents and the Delavan Lake ecosystem.

76. The District needs to access its sanitary sewer equipment to construct, service and maintain its sanitary sewer system.

77. The District is exempt from the County’s zoning and land use ordinances.

78. Based on the facts and authority above, this Court must issue a Declaratory Judgment that Walworth County may not prohibit Delavan Lake Sanitary District’s construction of any utility structure determined necessary by the District to further its duty to provide sanitary sewer services to its constituents.
WHEREFORE, Plaintiff, Delavan Lake Sanitary District, respectfully requests the Court award it the following relief:

A. Under Wis. Stats. § 59.694(10), issue a Writ of Certiorari directed to Defendant Walworth County, commanding that this Court be duly and fully certified of all of the proceedings of the Zoning Board of Adjustment and any other board or staff record relating to matters referred to in this Complaint, and further directing that the Defendant certify to the Court a true and correct copy of all files, correspondences, papers, audio recordings, agendas, minutes, submissions and other proceeding pertaining the Plaintiff’s claims;

B. Upon return of such Writ, enter an order vacating the Zoning Board of Adjustment’s Decision and Findings dated September 16, 2020, and remanding for further proceedings on the District’s application for a construction site erosion and sediment control permit for the reinforcement of the Access Path under a correct theory of law; and

C. Under Wis. Stat. § 806.04 issue a Declaratory Judgment that Walworth County may not prohibit Delavan Lake Sanitary District’s construction of any utility structure determined necessary by the District.

Dated this 30th day of September 2020.

MUNICIPAL LAW & LITIGATION GROUP, S.C.
Attorneys for Delavan Lake Sanitary District

By:  

s/ H. Stanley Riffle
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Appendix A
NOTICE OF BOARD OF ADJUSTMENT DECISION AND FINDINGS

NAME OF APPLICANT(S): Delavan Lakeview Crest Corp, owner
                              Stanley Riffle, Municipal Law & Litigation Group SC, applicant

TOWN: Town of Delavan       TAX PARCEL NUMBER: F D 3100011

APPLICANT(S) APPEAL: The applicants are appealing the interpretation and decision of the Walworth County Land Conservation Division to deny the Delavan Lake Sanitary District’s application for a construction site erosion and sediment control permit for the installation of a gravel drive based on Section(s) 26-58(b)(1)(m) and 26-65(a)(12) of the Walworth County Code of Ordinances (Environment) and 74-174 of the Walworth County Code of Ordinances (Shoreland Zoning). The applicants’ interpretation is that the denial is contrary to the law and in violation of the County’s ordinances and violates Wisconsin statutes, Administrative Code provisions and Wisconsin case law.

BOARD OF ADJUSTMENT DECISION: The Walworth County Board of Adjustment, during the meeting of September 9 & 10, 2020, which was the continuation of the meeting of May 13 & 14 2020, voted to deny the appeal of the applicant and voted to uphold the decision of the Walworth County Land Conservation Division.

BOARD OF ADJUSTMENT FINDINGS: The Board found that the proposed drive is a structure. The Board found the drive is not a structure exempted from shoreland zoning requirements by Wis. Stat. § 59.692(1n)(d). The Board found that the Delavan Lake Sanitary District can use other methods or designs for accessing the site and facilitating maintenance. The Board found that the Wisconsin Department of Natural Resources approval and Army Corp of Engineers approval both cited the possibility of local approvals being required. The Board found the county provided the Delavan Lake Sanitary District with the process necessary to obtain approvals for the drive as proposed. The Board found that the applicant failed to pursue that process.
Page 2 of 2  Walworth County Board of Adjustment Decisions and Findings
Delavan Lakeview Crest Corp, owner / Stanley Riffle, Municipal Law &
Litigation Group SC, applicant

BOARD MEMBER'S SIGNATURES:

Elizabeth Sukala, Vice-Chair

Barbara A. Fischer, 2nd Alternate

Ann Seaver, Secretary

This decision may be appealed by filing an action in certiorari in the Walworth County
Circuit Court within thirty (30) days from the date the decision is filed in the offices of
the Land Use and Resource Management Department.
Approvals by the Board of Adjustment shall expire within twelve (12) months unless
substantial work has commenced pursuant to such approvals.
Non-compliance with the Boards decision
may result in citations being issued at
$663.00 per day.