

MARQUETTE COUNTY BOARD OF SUPERVISORS
WebEx Remote/Virtual and County Board Room of the Services Center
March 21, 2023

Pursuant to notice duly given in the manner established by the Board of Supervisors and in compliance with Sub-Chapter V of Chapter 19 of the Wisconsin Statutes, a lawfully held regular meeting of the Board of Supervisors of the County of Marquette, Wisconsin was called to order by County Board Chairperson Ken Borzick at 7:00 p.m. on March 21, 2023, at Montello, Wisconsin, at the time and place established by the Board of Supervisors or in accordance with law.

The Clerk called the roll and the following members answered roll call:

District No. 1 . . Abby Swan (virtual)
District No. 2 . . Dennis Fenner
District No. 3 . . David Krentz
District No. 4 . . John Bennett
District No. 5 . . Kathy Jo Locke
District No. 6 . . David Benson
District No. 7 . . Ken Borzick
District No. 8 . . Mike Raddatz
District No. 9 . . Bart O'Brien (absent)
District No. 10 . Mary P. Walters
District No. 11 . Al Rosenthal (virtual)
District No. 12 . Jon Vote (virtual)
District No. 13 . Kathleen McGwin (virtual)
District No. 14 . Jeff Frazer
District No. 15 . Gayle Mack
District No. 16 . Alan Gibeaut
District No. 17 . Judi Nigbor

A quorum of the Board of Supervisors was declared present and open meetings law compliance was established.

Also present were Administrator Ron Barger and Corporation Counsel Natalie Bussan.

A moment of silence was observed followed by the reciting of the Pledge of Allegiance.

Motion/second by Benson/Bennett to approve the agenda. Motion carried.

Motion/second by Walters/Bennett to approve the minutes of the February 21, 2023, meeting as printed. Motion carried.

Marquette County citizen Peggy Krause addressed the Board regarding a Marquette County Republican Party Resolution she had forwarded to the Board of Health regarding COVID injection legislation.

The chairperson of the respective standing committees gave committee reports. County Board Vice-Chairperson Al Rosenthal presented the 2022 Golden Sands RC&D Activities Summary.

Planning & Zoning Director Tom Onofrey led a discussion of a proposed Chapter 70 Zoning Amendment addressing Solar Energy Systems. Discussion followed.

Motion/second by Bennett/Raddatz to approve the consent agenda per agenda item number 8 confirming the appointment of Tamara Benson to the Economic Development Committee to fill the unexpired term of Patrick Scully-term to be concurrent with County Board term of office and to approve Resolutions 6-2023 through 9-2023. Motion carried.

Resolution No. 6-2023 RESOLUTION OF APPRECIATION TO LES CRANDALL
(Introduced by Ken Borzick and Al Rosenthal)

WHEREAS, the Marquette County Board of Supervisors would like to thank Les Crandall for his 31 years of service in the Sheriff's Office, beginning in July of 1992 as Corrections Deputy/Dispatch. Les was later promoted to Patrol Deputy, Patrol Sergeant, Lieutenant of Emergency Management, ultimately becoming Patrol Captain July 15th, 2012, on behalf of the people of Marquette County, with his effective retirement date of March 29, 2023, and

WHEREAS, his professional dedication, loyalty, and outstanding service to the people of Marquette County deserves special recognition,

NOW, THEREFORE, BE IT RESOLVED, that the Marquette County Board of Supervisors expresses its heartfelt appreciation to Les for his dedicated public service to the citizens of Marquette County, and

BE IT FURTHER RESOLVED, that this Resolution is permanently entered into the Record of the Proceedings of the Marquette County Board of Supervisors and that the County Clerk transmit a certified copy of this resolution to Les Crandall as an expression of the Board's gratitude and best wishes.

Resolution No. 7-2023 ZONING AMENDMENT- TOWN OF PACKWAUKEE
(Introduced by Dave Krentz and Dennis Fenner)

WHEREAS, the Marquette County Board of Supervisors has been petitioned to amend the Marquette County Zoning Ordinance, and

WHEREAS, the petition has been referred to the Marquette County Planning and Zoning Committee for public hearing, and

WHEREAS, the Marquette County Planning and Zoning Committee on due notice conducted a public hearing on the proposed amendment and filed their recommendation to the Board.

WHEREAS, the proposed amendment and recommendation of the Planning and Zoning Committee have been given due consideration by the Board in open session.

WHEREAS, the Board finds the following:

1. The land is better suited for a use not allowed in the AG-1 district.
2. The rezoning will not substantially impair or limit current or future agricultural use of the surrounding parcels of land that are zoned for or legally restricted to agricultural use.
3. The rezoning is consistent with the applicable town and County comprehensive plans, including the farmland preservation plan component of the County Comprehensive Plan.

NOW THEREFORE, the Marquette County Board of Supervisors do ordain as follows:

The Zoning Ordinance of Marquette County and accompanying Zoning Map is amended in the following respects: The SE1/4-NW1/4, Section 25, T15N R9E, Town of Packwaukee, containing 40 acres more or less is rezoned from Prime Agriculture (AG-1) with 2.3 acres rezoned to Agriculture Residential (AG-3(2)) and the remaining 37.7 acres to the Farmland Preservation Overlay (FPO) District.

Resolution No. 8-2023 ZONING AMENDMENT- TOWN OF PACKWAUKEE
(Introduced by Dave Krentz and Dennis Fenner)

WHEREAS, the Marquette County Board of Supervisors has been petitioned to amend the Marquette County Zoning Ordinance, and

WHEREAS, the petition has been referred to the Marquette County Planning and Zoning Committee for public hearing, and

WHEREAS, the Marquette County Planning and Zoning Committee on due notice conducted a public hearing on the proposed amendment and filed their recommendation to the Board.

WHEREAS, the proposed amendment and recommendation of the Planning and Zoning Committee have been given due consideration by the Board in open session.

WHEREAS, the Board finds the following:

1. The land is better suited for a use not allowed in the AG-1 district.
2. The rezoning will not substantially impair or limit current or future agricultural use of the surrounding parcels of land that are zoned for or legally restricted to agricultural use.
3. The rezoning is consistent with the applicable town and County comprehensive plans, including the farmland preservation plan component of the County Comprehensive Plan.

NOW THEREFORE, the Marquette County Board of Supervisors do ordain as follows:

The Zoning Ordinance of Marquette County and accompanying Zoning Map is amended in the following respects: CSM 1889 being part of the SE1/4-NW1/4, Section 3, T14N R9E, Town of Packwaukee, containing 3.01 acres more or less is rezoned from Prime Agriculture (AG-1) to the Agriculture Residential (AG-3(2)) District.

Resolution No. 9-2023 ZONING AMENDMENT- TOWN OF PACKWAUKEE
(Introduced by Dave Krentz and Dennis Fenner)

WHEREAS, the Marquette County Board of Supervisors has been petitioned to amend the Marquette County Zoning Ordinance, and

WHEREAS, the petition has been referred to the Marquette County Planning and Zoning Committee for public hearing, and

WHEREAS, the Marquette County Planning and Zoning Committee on due notice conducted a public hearing on the proposed amendment and filed their recommendation to the Board.

WHEREAS, the proposed amendment and recommendation of the Planning and Zoning Committee have been given due consideration by the Board in open session.

WHEREAS, the Board finds the following:

1. The land is better suited for a use not allowed in the AG-1 district.
2. The rezoning will not substantially impair or limit current or future agricultural use of the surrounding parcels of land that are zoned for or legally restricted to agricultural use.
3. The rezoning is consistent with the applicable town and County comprehensive plans, including the farmland preservation plan component of the County Comprehensive Plan.

NOW THEREFORE, the Marquette County Board of Supervisors do ordain as follows:

The Zoning Ordinance of Marquette County and accompanying Zoning Map is amended in the following respects: Lot 2, CSM 626 being part of the NE1/4-NE1/4, Section 18, T15N R9E, Town of Packwaukee, containing 2.676 acres more or less is rezoned from Prime Agriculture (AG-1) to the Agriculture Residential (AG-3(2)) District.

Agenda Item 9- Separate consideration of Resolution 10-2023 through 13-2023.

Resolution No. 10-2023 Authorizing Marquette County to Enter into the Settlement Agreements with Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Walgreen Co., Walmart, Inc., CVS Health Corporation and CVS Pharmacy, Inc., Agree to the Terms of the Addendum to the MOU Allocating Settlement Proceeds, and Authorize Entry into the MOU with the Attorney General
(Introduced by Ken Borzick and Al Rosenthal)

Upon roll call Resolution No. 10-2023 was adopted as follows: Ayes 16; Noes 0; Absent 1

*The MOU and Addendum to Resolution 10-2023 can be found in the Maquette County Clerk's Office and is available upon request. *

WHEREAS, on January 17, 2023 the Marquette County Board of Supervisors previously authorized the County to enter into an engagement agreement with von Briesen & Roper, s.c., Crueger Dickinson LLC and Simmons Hanly Conroy LLC (the "Law Firms") to pursue litigation against certain manufacturers, distributors, and retailers of opioid pharmaceuticals (the "Opioid Defendants") in an effort to hold the Opioid Defendants financially responsible for the County's expenditure of vast money and resources to combat the opioid epidemic;

WHEREAS, on behalf of the County, the Law Firms filed a lawsuit against the Opioid Defendants;

WHEREAS, the Law Firms filed similar lawsuits on behalf of 66 other Wisconsin counties and all Wisconsin cases were coordinated with thousands of other lawsuits filed against the same or substantially similar parties as the Opioid Defendants in the Northern District of Ohio, captioned *In re: Opioid Litigation*, MDL 2804 (the "Litigation");

WHEREAS, four (4) additional Wisconsin counties (Milwaukee, Dane, Waukesha, and Walworth) hired separate counsel and joined the Litigation;

WHEREAS, since the inception of the Litigation, the Law Firms have coordinated with counsel from around the country (including counsel for Milwaukee, Dane, Waukesha, and Walworth Counties) to prepare the County's case for trial and engage in extensive settlement discussions with the Opioid Defendants;

WHEREAS, the settlement discussions with Teva Pharmaceutical Industries Ltd., Allergan Finance, LLC, Walgreen Co., Walmart, Inc., CVS Health Corporation and CVS Pharmacy, Inc.. (the "Settling Defendants") resulted in a tentative agreement as to settlement terms pending agreement from the County and other plaintiffs involved in the Litigation;

WHEREAS, copies of the various settlement agreements relating to the Settling Defendants (collectively "Settlement Agreements") representing the terms of the tentative settlement agreements with the Settling Defendants have been provided with this Resolution;

WHEREAS, the Settlement Agreements provide, among other things, for the payment of certain sums to Participating Subdivisions (as defined in the Settlement Agreements) upon the occurrence of certain events detailed in the Settlement Agreements;

WHEREAS, the County is a Participating Subdivision in the Settlement Agreements and has the opportunity to participate in the benefits associated with the Settlement Agreement provided the County (a) approves the Settlement Agreements; (b) approves the Memorandum of Understanding allocating proceeds from the Settlement Agreements among the various Wisconsin Participating Subdivisions, a copy of which is attached to this Resolution (the "Allocation MOU"); (c) approves the Memorandum of Understanding with the Wisconsin Attorney General regarding allocation of settlement proceeds, a copy of which is attached to this Resolution (the "AG MOU"); and (d) the Legislature's Joint Committee on Finance approves the terms of the Settlement Agreements and the AG MOU;

WHEREAS, 2021 Wisconsin Act 57 created Section 165.12 of the Wisconsin Statutes relating to the settlement of all or part of the Litigation;

WHEREAS, pursuant to Wis. Stat. § 165.12(2), the Legislature's Joint Committee on Finance is required to approve the Settlement Agreements and the AG MOU;

WHEREAS, pursuant to Wis. Stat. § 165.12(2), the proceeds from any settlement of all or part of the Litigation are distributed 70% to local governments in Wisconsin that are parties to the Litigation and 30% to the State;

WHEREAS, Wis. Stat. § 165.12(4)(b)2. provides the proceeds from the Settlement Agreement must be deposited in a segregated account (the "Opioid Abatement Account") and may be expended only for approved uses for opioid abatement as provided in the Settlement Agreements;

WHEREAS, Wis. Stat. § 165.12(7) bars claims from any Wisconsin local government against the Opioid Defendants filed after June 1, 2021;

WHEREAS, the definition of Participating Subdivisions in the Settlement Agreements recognizes a statutory bar on claims such as that set forth in Wis. Stat. § 165.12(7) and, as a result, the only Participating

Subdivisions in Wisconsin are those counties and municipalities that were parties to the Litigation (or otherwise actively litigating a claim against one, some, or all of the Opioid Defendants) as of June 1, 2021;

WHEREAS, the Legislature's Joint Committee on Finance is not statutorily authorized or required to approve the allocation of proceeds of the Settlement Agreements among Wisconsin Participating Subdivisions;

WHEREAS, the Law Firms have engaged in extensive discussions with counsel for all other Wisconsin Participating Subdivisions resulting in the proposed Allocation MOU, which is an agreement between all of the entities identified in the Allocation MOU as to how the proceeds payable to those entities under the Settlement Agreements will be allocated;

WHEREAS, the proposed Addendum to the MOU ("Addendum") provided with this Resolution provides for allocation of settlement proceeds among the Wisconsin Participating Subdivisions according to the same percentages as that provided in the previously-approved MOU allocating the settlement proceeds of the settlements involving McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Corporation, Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.;

WHEREAS, there is provided with this Resolution a summary of the essential terms of the Settlement Agreements, the deadlines related to the effective dates of the Settlement Agreements, the ramifications associated with the County's refusal to enter into the Settlement Agreements, the form of the Addendum, the form of the AG MOU, and an overview of the process for finalizing the Settlement Agreements;

WHEREAS, the County, by this Resolution, shall deposit the proceeds of the Settlement Agreements consistent with the terms of this Resolution and Wis. Stat. § 165.12(4)(b);

WHEREAS, pursuant to the County's engagement agreement with the Law Firms, the County shall pay up to an amount equal to 25% of the proceeds from successful resolution of all or part of the Litigation, whether through settlement or otherwise, plus the Law Firms' costs and disbursements, to the Law Firms as compensation for the Law Firms' efforts in the Litigation and any settlement;

WHEREAS, the Law Firms anticipate making application to the national fee fund established in the Settlement Agreements seeking payment, in whole or part, of the fees, costs, and disbursements owed the Law Firms pursuant to the engagement agreement with the County;

WHEREAS, it is anticipated the amount of any award from the fee fund established in the Settlement Agreements will be insufficient to satisfy the County's obligations under the engagement agreement with the Law Firms;

WHEREAS, the County, by this Resolution, and pursuant to the authority granted the County in the applicable Order emanating from the Litigation in relation to the Settlement Agreements and payment of attorney fees, shall authorize and direct the escrow agent responsible for the receipt and distribution of the proceeds from the Settlement Agreements to establish an account for the purpose of segregating funds to pay the fees, costs, and disbursements of the Law Firms owed by the County (the "Attorney Fees Account") in order to fund a local "backstop" for payment of the fees, costs, and disbursements of the Law Firms;

WHEREAS, in no event shall payments to the Law Firms out of the Attorney Fees Account and the fee fund established in the Settlement Agreements exceed an amount equal to 25% of the amounts allocated to the County in the Addendum;

WHEREAS, the intent of this Resolution is to authorize the County to enter into the Settlement Agreements, the Addendum, and the AG MOU, establish the County's Opioid Abatement Account, and establish the Attorney Fees Account; and

WHEREAS, the County, by this Resolution, shall authorize the County's corporation counsel to finalize and execute any escrow agreement and other document or agreement necessary to effectuate the Settlement Agreements and the other agreements referenced herein;

NOW, THEREFORE, BE IT RESOLVED: the County Board of Supervisors hereby approves:

1. The execution of the Settlement Agreements and any and all documents ancillary thereto and authorizes the County Administrator to execute same.
2. The final negotiation and execution of the Addendum in form substantially similar to that presented with this Resolution and any and all documents ancillary thereto and authorizes the County Administrator to execute same upon finalization provided the percentage share identified as allocated to the County is substantially similar to that identified in the Addendum provided to the Board with this Resolution.
3. The final negotiation and execution of the AG MOU in form substantially similar to that presented with this Resolution and any and all documents ancillary thereto and authorizes the County Administrator to execute same.
4. The execution by the County Administrator of any additional documents or agreements for the receipt and disbursement of the proceeds of the Settlement Agreements as referenced in the Addendum.

BE IT FURTHER RESOLVED: all proceeds from the Settlement Agreements not otherwise directed to the Attorney Fees Account shall be deposited in the County's Opioid Abatement Account. The Opioid Abatement Account shall be administered consistent with the terms of this Resolution, Wis. Stat. § 165.12(4), and the Settlement Agreements.

BE IT FURTHER RESOLVED: the County hereby authorizes the establishment of an account separate and distinct from any account containing funds allocated or allocable to the County which shall be referred to by the County as the "Attorney Fees Account." An escrow agent shall deposit a sum equal to up to, but in no event exceeding, an amount equal to 20% of the County's proceeds from the Settlement Agreements into the Attorney Fees Account. If the payments to the County are not enough to fully fund the Attorney Fees Account as provided herein because such payments are made over time, the Attorney Fees Account shall be funded by placing up to, but in no event exceeding, an amount equal to 20% of the proceeds from the Settlement Agreements attributable to Local Governments (as that term is defined in the Allocation MOU) into the Attorney Fees Account for each payment. Funds in the Attorney Fees Account shall be utilized to pay the fees, costs, and disbursements owed to the Law Firms pursuant to the engagement agreement between the County and the Law Firms provided, however, the Law Firms shall receive no more than that to which they are entitled under their fee contract when considering the amounts paid the Law Firms from the fee fund established in the Settlement Agreements and allocable to the County. The Law Firms may make application for payment from the Attorney Fees Account at any time and the County shall cooperate with the Law Firms in executing any documents necessary for the escrow agent to make payments out of the Attorney Fees Account.

BE IT FURTHER RESOLVED that all actions heretofore taken by the Board of Supervisors and other appropriate public officers and agents of the County with respect to the matters contemplated under this Resolution are hereby ratified, confirmed, and approved.

Resolution No. 11-2023 BUDGET AMENDMENT- 911 TEXTING SETUP FEE & ESINET PROGRAM
(Introduced by Kathy Jo Locke and Dave Benson)

Upon roll call Resolution No. 11-2023 was adopted as follows: Ayes 16; Noes 0; Absent 1

WHEREAS, NG911 ESINet (Emergency Services IP Network) allows a caller to send information to dispatchers regarding an emergency through videos, text messages, and photos, and

WHEREAS, Marquette County was unable to secure PSAP grant funding for ESINet, and

WHEREAS, Frontier will soon no longer support the administrative lines in the Marquette County Sheriff's Office, and

WHEREAS, if Marquette County does not upgrade to ESINet we will lose our place within the AT&T Motorola upgrade queue, resulting in a 3-4 year extension of completion, and

WHEREAS, the Judicial and Public Safety Committee and the Executive and Finance Committee are recommending moving forward with the ESINet Project, and

THEREFORE BE IT RESOLVED, the Marquette County Board of Supervisors approves the ESINet project, with a \$1,250 911 texting setup fee and a \$28,922.72 project fee (including one year of maintenance), with a total of \$30,172.72 being transferred from the General Fund to the 2023 Sheriff's Office Budget.

FISCAL IMPACT: \$30,172.72 to be transferred from the General Fund to the 2023 Sheriff's Office budget.

Motion/second by Raddatz/Walters to amend Resolution 12-2023 to add language noting the budget amendment will take place at the end of the year. Upon roll call the amendment to Resolution 12-2023 was adopted as follows:
Ayes 15; Noes 1 (Swan); Absent 1

Resolution No. 12-2023 *Amended* BUDGET AMENDMENT- NIGHT SHIFT AND WEEKEND
DIFFERENTIAL

(Introduced by Mary Walters and Dave Benson)

Upon roll call Amended Resolution No. 12-2023 was adopted as follows: Ayes 9; Noes 7 (Swan, Locke, Vote, Frazer, Mack, Gibeaut, Nigbor); Absent 1

WHEREAS, the Marquette County Sheriff's Office is responsible for being a 24/7 service to the community and currently has a \$0.50 night shift (6pm-6am) differential for jail/dispatch, and

WHEREAS, the Judicial & Public Safety Committee and the Executive and Finance Committee recommend a pay differential increase for night shift and a pay differential for the weekend shift, and

THEREFORE BE IT RESOLVED, the Marquette County Board of Supervisors approves a \$1 pay differential to begin April 1, 2023 for jail/dispatch night shift (6pm-6am) and weekend hours (Friday 6pm-Sunday 6pm), and

BE IT FURTHER RESOLVED, the estimated fiscal impact of the pay differential to be approximately \$16,775.00 for night shift and approximately \$10,560.00 for weekend shift, being a total of up to, but not limited to, \$27,335.00, not including Social Security, FICA, and Retirement costs.

FISCAL IMPACT: Approximately \$27,335.00 to be transferred from the General Fund to the 2023 Sheriff's Office budget *at the end of the year*

Resolution No. 13-2023 RESOLUTION ORDERING THE ISSUANCE OF A TAX DEED ON UNREDEEMED
TAX CERTIFICATES

(Introduced by Gayle Mack and Al Gibeaut)

Upon roll call Resolution No. 13-2023 was adopted as follows: Ayes 16; Noes 0; Absent 1

WHEREAS, the Marquette County Treasurer has followed the procedures required by Chapters 74 and 75 of the Wisconsin Statutes in attempting to collect property tax owed on certain real estate located within Marquette County; and that real estate taxes for the year 2018 remain unpaid for certain properties; and

WHEREAS, your Committee is also informed that all the statutory requirements concerning notification and publication of notices for said properties with unpaid taxes for the year 2017 have been completed; and

WHEREAS, such resolution is the next necessary step in the equitable enforcement and collection of real estate taxes.

NOW, THEREFORE, the Marquette County Board of Supervisors hereby orders the issuance of a Tax Deed to Marquette County and its assigns for the parcels of land listed below:

TOWN OF HARRIS

All that part of the Southwest (SW1/4) of the Northwest (NW1/4) of Section 11, Township 16 North, Range 9 East, Town of Harris, Marquette County, Wisconsin, that now lies Under the Mill Pond as described in Warranty Deed recorded April 21, 1896, in Vol 31, Page 489, Document No. 37409. (17.38A)
Assessed Value: \$100.00
Parcel No. 008-00313-0000

All that part of the West half of the Southwest (SW1/4) of Section 11, Township 16 North, Range 9 East, Town of Harris, Marquette County, Wisconsin, that now lies Under the Mill Pond as described in Warranty Deed recorded January 18, 1853 in Vol 1, Page 267. (22.33A)
Assessed Value: \$100.00
Parcel No. 008-00326-0000

Administrator Barger reported that Green Lake County has approved a full-time Medical Examiner position. Marquette County and Green Lake County are still in negotiations for Medical Examiner coverage.

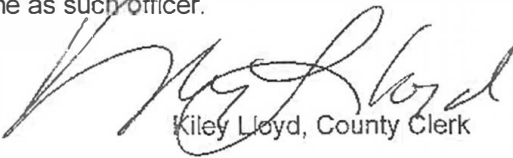
The fiscal and personnel reports, grant updates, and correspondence was reviewed as presented by Administrator Ron Barger.

Calendar planning was reviewed for April 2023 meetings. Annual Reports were set for some departments to report at the regularly held meeting May 16th at 6:00 p.m., with the majority of departments presenting May 22nd at 6:00 p.m.

The meeting was declared adjourned subject to the call of the Chairperson. The meeting adjourned at 8:27 p.m.

CERTIFICATE
STATE OF WISCONSIN }
) SS
County of Marquette)

I, Kiley Lloyd, County Clerk in and for Marquette County, Wisconsin do hereby certify that the foregoing is a true copy of the proceedings of the County Board of Supervisors of said County at their meeting held in-person and remotely by using WebEx by me as such officer.


Kiley Lloyd, County Clerk