

**Notice of Special & Regular Business Meeting**  
**Polk County Board of Supervisors**  
**Polk County Government Center, County Board Room**  
**100 Polk County Plaza, Balsam Lake, Wisconsin**  
**Tuesday, Sept. 21, 2010 at 3:30 p.m.**

County Board may recess and reconvene at 6:30 pm  
**Open Session**

1. Call to Order
2. Evidence of Proper Notice
3. Roll Call
4. 2011 Budget Draft Presentation and Discussion
5. Board Action or Direction on the 2011 Draft Budget as Presented  
**Recess until 6:30 pm for Regular County Board Meeting**
6. Roll Call (6:30 pm – County Board Room)
7. Prayer – Supervisor Herschel Brown
8. Pledge of Allegiance
9. Consideration of Corrections to the Noticed Agenda
10. Consideration of Corrections to the Published Minutes of the Aug. 17, 2010 County Board Meeting
11. Public Comments, 3 minutes Per Person, not to exceed 30 minutes total
12. Chairperson's Report
13. County Administrator's Report
14. Finance Director's Report
15. Presentation on OWI Prevention Committee: Victim Impact Panel – Honorable Judge Robert H. Rasmussen
16. Committee/Board Reports
  - a. Highway – Supr. Caspersen
  - b. Finance – Supr. Bergstrom
  - c. Personnel – Supr. Arcand
  - d. Property, Forestry & Recreation – Supr. Jepsen
  - e. Extension, Land & Water, Lime – Supr. D. Johansen
  - f. Public Protection – Supr. Luke
  - g. Land Info – Supr. O'Connell
  - h. Human Services Board – Supr. Stoneking
  - i. Boards of Health & Aging – Supr. Schmidt
  - j. GAM Board – Supr. Kienholz
  - k. Organizational Comm. – Supr. Brown
17. Approval of Administrator's Appointment of Supr. Warren Nelson to the City of Amery Joint Review Board for TIF District #7
18. **Proposed Ordinances and Resolutions and Actions of the Board:**
  - (A) To Confirm the Appointment of Lime Quarry Manager**
  - (B) County Nursing Homes and the 2011-2013 State Biennial Budget**
  - (C) Resolution to Hold a Public Hearing Concerning the Adoption of the Proposed Polk County Smoke-Free Air Ordinance**
  - (D) Polk County Land Records Modernization Plan 2011-2015**
  - (E) Creation of the Polk County Land Council**
  - (F) Amendment to the Polk County Private System Ordinance**
  - (G) Resolution to Increase the Fee for the Expenses of Taking Tax Deed by Polk County**
  - (H) Resolution to Authorize and Adopt a contract for Medical Examiner Services With Anoka County, Minnesota**
  - (I) Resolution to Amend Certain Polk County Policies: Policy No.202, Personnel Records; Policy No. 302, Benefit Administration for the Non-Represented Employees; and Policy No. 703, Sexual Harassment**
  - (J) Resolution to Amend Polk County Board of Supervisors' Rules of Order Adopted on April 20, 2010**
19. Supervisor's Reports
20. Adjourn

This meeting is open to the public according to Wisconsin State Statute 19.83. Persons with disabilities wishing to attend and/or participate are asked to notify the County Clerk's office (715-485-9226) at least 24 hours in advance of the scheduled meeting time so all reasonable accommodations can be made.

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A

To Confirm The Appointment of Lime Quarry Manager

WHEREAS, the position of Lime Quarry Manager is a department head position previously authorized and funded by the Polk County Board of Supervisors;

WHEREAS the Lime Quarry Manager has the responsibility for managing the operations of the Polk County Lime Quarry including the production, sale, and marketing of agricultural lime and lime products; and

WHEREAS, the position of Lime Quarry Manager had been vacated on August 12, 2008 and filled through an interim appointment since September 18, 2009; and

WHEREAS, pursuant to Polk County personnel policy, Policy No. 103, Employee Recruitment, Selection, and Status, the County Administrator has conducted interviews and evaluated the applications of qualified candidate for the purpose of filling the position of Lime Quarry Manager; and

WHEREAS, pursuant to Wisconsin Statute Section 59.18(2)(b), and based upon the selection process carried out pursuant to Polk County Policy No. 103, the County Administrator has appointed David Peterson as the Polk County Lime Quarry Manager, conditioned upon confirmation of the County Board of Supervisors and acceptance of the offer of appointment.

NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors confirms the appointment of David Peterson to the department head position of Lime Quarry Manager, effective on September 6, 2010, as made and recommended by the County Administrator.

Funding Amount: Non-Represented DB Rating Wage Scale Grade B32 - \$53,019.20 annually (equivalent to \$25.49/hour)

Funding Source: Lime Quarry Departmental Budget

Date Finance Committee Advised: Not Applicable

Finance Committee Recommendation: Not Applicable

Effective Date: As Stated in the Resolution.

Approved as to form: Jeffrey B. Fuge  
Jeffrey B. Fuge, Corporation Counsel

Dated Submitted to County Board: September 21, 2010

County Board Action: \_\_\_\_\_

Submitted and Sponsored By:

Will [Signature]  
\_\_\_\_\_

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At its regular business meeting on September 21, 2010, the Polk County Board of Supervisors adopted the above-entitled resolution, Resolution \_\_\_\_-10: Resolution to Confirm To The Appointment of Lime Quarry Manager, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.

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William Johnson, IV, County Board Chairperson

Attest: \_\_\_\_\_  
Carole Wondra, Polk County Clerk

B

COUNTY NURSING HOMES AND THE 2011-2013 STATE BIENNIAL BUDGET

WHEREAS, county homes play a unique role in Wisconsin's continuum of care for citizens in need of long-term care services; and

WHEREAS, the majority of county homes care for residents with high acuity levels and intense behavioral needs; and

WHEREAS, Wisconsin county homes have a long history of partnering with the state to maximize federal resources available to the state; and

WHEREAS, under the Supplemental Payment Program, formerly known as the intergovernmental transfer program, federal matching funds are generated based on actual operating losses incurred by governmental nursing homes; and

WHEREAS, all revenue generated from county nursing home losses is deposited in the state of Wisconsin's Medical Assistance Trust Fund; and

WHEREAS, through the combined efforts of the state and counties, billions of dollars have been brought in over the past decade, most of which was utilized to offset deficits in the Medical Assistance Trust Fund; and

WHEREAS, under current state law, the state may not distribute to counties more than \$39,100,000 in each fiscal year; and

WHEREAS, all revenue received under the supplemental payment program is derived from certified county nursing home losses; and

WHEREAS, counties depend on revenue received from the supplemental payment program to maintain high-quality services to vulnerable residents; and

WHEREAS, counties utilize revenue from the Supplemental Payment and Certified Public Expenditure Programs to offset property tax dollars utilized to fund the operation of county homes; and

WHEREAS, the 2009-2011 state biennial budget allocates only \$38.1 million annually in payments to counties, although the Department of Health Services estimates receiving \$96.2 million in federal matching funds based on county nursing home losses; and

WHEREAS, the nursing home bed assessment (tax) was created as part of 1991 Wisconsin Act 269 as a methodology to fund the Medical Assistance nursing home rate increases that took effect in FY 92; and

WHEREAS, since that time, the bed tax has increased from \$32 per month per bed to \$170 per licensed bed; and

WHEREAS, in the 2009-2011 state biennial budget, a majority of the funds raised through the increased bed tax was utilized to offset the state's Medicaid deficit, in addition to funding the two percent rate increase in each year of the biennium; and

WHEREAS, in FY 10, 68% of the federal revenue derived from the bed tax was utilized to offset general fund expenditures; 51% of the federal revenue will be utilized for non-nursing home expenditures in FY 11; and

WHEREAS, a bed tax increase of \$14 in FY 10 and an additional increase of \$33 in FY 11 is all that was needed to fund the two percent rate increase; instead, over \$66 million of revenue derived from the bed tax was utilized over the biennium to replace GPR base funding for MA benefits; and

WHEREAS, there is no public policy argument to justify increasing taxes paid by nursing homes and their residents to benefit the general fund; and

WHEREAS, returning the revenue generated from the bed tax will fund a rate increase of approximately 3.25 percent in FY 12 without the need for additional GPR or bed tax dollars; and

WHEREAS, Institutes for Mental Disease (IMDs) with state-only licenses are required to pay the bed tax, even though they do not qualify for Medicaid payments.

NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors requests that the following action be taken by the Governor and State Legislature during 2011-2013 state biennial budget deliberations:

1. Support a statutory change to Sec. 49.45 (6u)(am) Wis. Stats. such that it reads **...the department shall distribute to these facilities and to care management organizations at least \$39,100,000 in each fiscal year...**
2. Support a statutory change requiring the state to share equally the federal match dollars received as a result of county nursing home losses.
3. Nursing home bed assessment funds and the federal matching funds generated should be used for nursing home rate increases, not as supplementation to the MA Trust Fund.
4. County government-owned IMDs and state-only licensed facilities should be exempt from the provider bed assessment (bed tax).

BE IT FURTHER RESOLVED that copies of this resolution be sent to Department of Health Services Secretary Karen Timberlake, Department of Administration Secretary Dan Schooff, all area legislators and the Wisconsin Counties Association.

Funding Amount: Not Applicable  
Funding Source: Not Applicable  
Date Finance Committee Advised: Not Applicable  
Finance Committee Recommendation: Not Applicable  
Effective Date: Upon Passage

Approved as to form: Jeffrey B. Fuge  
Jeffrey B. Fuge, Corporation Counsel

Date Submitted to County Board: \_\_\_\_\_  
County Board Action: \_\_\_\_\_

Submitted and Sponsored by the Golden Age Manor Governing Board:

Kathryn Kealy 8-17-10  
[Signature]  
[Signature]

D.C. Olson  
\_\_\_\_\_  
\_\_\_\_\_

This Resolution was enacted by the Polk County Board of Supervisors by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against on the \_\_\_\_\_ day of \_\_\_\_\_ 2010.

\_\_\_\_\_  
William Johnson, IV  
Polk County Board Chairperson

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Carole Wondra, County Clerk

Dated: \_\_\_\_\_

C

RESOLUTION 2010-\_\_\_\_\_

Resolution to Hold a Public Hearing Concerning the Adoption of the Proposed Polk County Smoke-Free Air Ordinance

WHEREAS, 2009 Wisconsin Act 12 (Act 12) expanded prohibitions against smoking that were already existing in state statute and also limited exceptions where smoking is prohibited; and

WHEREAS, local law enforcement officials are authorized to enforce the provisions of the Act 12 through the issuance of a summons and complaint, as Act 12 does not allow the issuance of citations as a tool of enforcement; and

WHEREAS, local governments may enact ordinances that incorporate the provisions of Act 12 and that authorize the use of citations as a tool of enforcement; and

WHEREAS, the Polk County Board of Health has considered the proposal of such an ordinance, the Polk County Smoke-Free Air Ordinance, and has recommended that the Polk County Board of Supervisors hold a public hearing on proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Polk County Board of Supervisors will hold a public hearing at its regular business meeting in October 2010, at which the proposed Polk County Smoke-Free Ordinance, as attached hereto and incorporated herein, will be discussed.

BE IT FURTHER RESOLVED that the Polk County Board of Supervisors directs the County Clerk to cause to be published a Class 1 notice of public hearing of such matter.

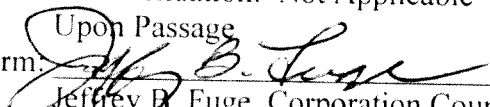
Funding Amount: Not Applicable

Funding Source: Not Applicable

Date Finance Committee Advised: Not Applicable

Finance Committee Recommendation: Not Applicable

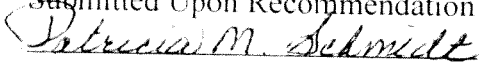
Effective Date: Upon Passage

Approved as to Form:   
Jeffrey B. Fuge, Corporation Counsel

Date Submitted to County Board: September 21, 2010

County Board Action: \_\_\_\_\_

Submitted Upon Recommendation by the Polk County Board of Health:



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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At its regular business meeting held on September 21, 2010, the Polk County Board of Supervisors, enacted the above-entitled resolution, Resolution \_\_\_\_\_-10, Resolution to Hold a Public Hearing Concerning the Adoption of the Proposed Polk County Smoke-Free Air Ordinance, by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

\_\_\_\_\_  
William Johnson, IV, Polk County Board Chairperson

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Carole Wondra, County Clerk

Dated: \_\_\_\_\_

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ORDINANCE NO. \_\_\_\_-10

## POLK COUNTY SMOKE-FREE AIR ORDINANCE

The County Board of Supervisors of the County of Polk does ordain the Polk County Smoke Free Air Ordinance, as follows:

### **Section. 1 Purpose.**

Polk County Government recognizes that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of nonsmokers/smokers when they are involuntarily in the presence of smoking. Scientific studies have demonstrated that secondhand tobacco smoke is a significant health hazard for children, the elderly, and individuals with cardiovascular disease or impaired respiratory function. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers. This Ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of Polk County.

### **Section. 2 Definitions.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Assisted living facility** means a community – based residential facility, as defined in s. 50.01 (1g), a residential care apartment complex, as defined in s. 50.01 (1d), or an adult family home, as defined in s. 50.01 (1) (b).

**Child care facility/Daycare Center** shall mean any licensed or certified child care facility, including, but not limited to licensed family day care or licensed group day care centers, licensed day camps, certified school-age programs, and Head Start programs, operated by a child care provider that provides care and supervision for 4 or more children under 7 years of age for less than 24 Hours a day. (s. 49.136 (1) (d)).

**Correctional facility** means any of the following: 1. A state prison, as defined or named in s. 302.01, except a correctional institution under s. 301.046 (1) or 301.048 (4) (b) if the institution is the prisoner's place of residence and no one is employed there to ensure the prisoner's incarceration. 2. A juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody. 3. A jail, as defined in s. 165.85 (2) (bg), a Huber facility under s. 303.09, a work camp under s. 303.10, a reforestation camp under s. 303.07, or a lockup facility under s. 302.30.

**Cigarette** has the meaning set forth in sec. 139.30(1), Wis. Stats.

**Employment** means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.

**Enclosed space** shall mean all space between a floor and ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 25 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh court is not a wall.

**Entrance** shall mean a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk, or parking lot.

**Lodging establishment** means any of the following:

1. A bed and breakfast establishment, as defined in s. 254.61 (1).
2. A hotel and motel, as defined in s. 254.61 (3).
3. A tourist rooming house, as defined in s. 254.61 (6).

**Person in charge** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

**Place of employment** means any enclosed place that employees normally frequent during the course of employment, including, but not limited to, common work areas, private office, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, an employee cafeteria and all other enclosed facilities.

**Private club** shall mean an organization, whether incorporated or not, which is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain and which only sells alcohol beverages incidental to its operation. The affairs and management of the private club are conducted by a board of directors, executive committee, or similar body chosen by the members at an annual meeting. The private club has established bylaws and/or a constitution to govern the club's activities. The private club has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C.A. section 501.

**Private residence** shall mean a premise owned, rented, or leased for temporary or permanent habitation.

**Public place** means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

**Reasonable Distance** means a distance away from entry ways in which smoke may not infiltrate back into the establishment

**Restaurant** means an establishment defined in Sec. 94.113

**Retail establishment** means any store or shop in which retail sales is the principal business conducted.

**Smoking** means burning or holding or inhaling or exhaling smoke from, any of the following items containing tobacco:

1. A lighted cigar.
2. A lighted cigarette.
3. A lighted pipe.
4. Any other lighted smoking equipment.

**Sports arena** means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other place where spectator sporting events are held.

**Tavern** means any establishment, other than a restaurant, that holds a "Class B" intoxication liquor license or Class "B" fermented malt beverages license.

**Tobacco product** means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.

**Section. 3. Smoking prohibited in public places.**

- (1) Except as otherwise provided, no person may smoke in any of the following spaces, including, but not limited to:
  - (a) Any enclosed space of a public place or place of employment.
  - (b) Areas in Polk County parks and recreational areas as posted and so designated by the Forestry Department and/or Polk County Parks Maintenance Department including, but not limited to, the fairground buildings & dugouts, hockey arena, playground and swing set areas, and park restrooms.
  - (c) Sports arenas, meaning sports pavilions, stadiums, gymnasiums, health spas, swimming pools, roller and indoor ice rinks, bowling centers, and other similar places where the public assembles to engage in physical exercise, participate in athletic event competition, or witness a sporting or other event, including the seating areas .
  - (d) Child care facilities/daycare centers.

- (e) Within the outdoor premises of a child care facilities/daycare center when children who are receiving daycare services are present.
  - (f) County-owned or leased motor vehicles.
  - (g) Within a reasonable distance from all entry ways of public buildings and structures, including, but not limited to, entry ways, park pavilions, etc., except open air facilities.
  - (h) Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.
  - (i) Correctional facilities.
  - (j) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, and other multiple-unit residential facilities.
  - (k) Self-service laundry facilities.
  - (l) Bars, restaurants, taverns, nightclubs, and cocktail lounges.
- (2) The prohibition of smoking under sub. (1) does not apply to any of the following places:
- (a) A private residence.
  - (b) A room used by only one person in an assisted living facility as his or her residence.
  - (c) A room in an assisted living facility in which 2 or more people reside if every person who lives in that room smokes and each of those people has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
  - (d) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
  - (e) A tobacco bar that is in existence since June 3, 2009, and which only the smoking of cigars and pipes is allowed.

#### **Section. 4. Signs Required**

- (1) Signs prohibiting smoking shall be posted conspicuously at every public entrance by the proprietor or other person in charge of each building or structure. Signs in specified outdoor areas designated as non-smoking shall be placed so that the

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general public has reasonable notice of the prohibition. Signs shall contain the international symbol for no smoking and the word "No Smoking". Each sign and the language contained therein shall be clearly visible from a distance of at least ten (10) feet.

- (2) It shall be unlawful for any person to remove, deface, or destroy any legally required "No Smoking" sign.

**Section. 5. Responsibility of person in charge.**

No person in charge may allow any person to smoke in violation of sections 3 at a location that is under the control or direction of the person in charge.

- (1) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.
- (2) A person in charge shall make reasonable effort to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
  - (a) Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
  - (b) Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
  - (c) Asking a person who is smoking to refrain from smoking and, if the person refused to do so, asking the person to leave the location.
- (3) If a person refuses to leave a location after being requested to do so as provided in paragraph (c), the person in charge shall immediately notify the local law enforcement agency of the violation.
- (4) The person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.

**Section. 6. Enforcement.**

- (1) Designated Enforcement Officer: The Polk County Sheriff or designee, local law enforcement or designee, or Health Officer or designee, are designated enforcement officers for purposes of this ordinance. Said designated enforcement officers shall have the power, whenever they may deem it necessary, to enter upon the premises named in this section to ascertain whether the premises are in

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compliance with this ordinance. The above-listed departments may issue compliance orders and citations pursuant to the provisions of this code.

- (2) The proprietor, employer or other person in charge of premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:
  - (a) Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking
  - (b) Refusing service to anyone smoking in a prohibited area.
- (3) Any person who desires to register a complaint under this section may contact the Polk County Sheriff's Department, local law enforcement agencies, or the Polk County Health Department.

**Section. 7 Violation and Forfeiture.**

- (1) **WARNING:** With regards to violations of Sections 4, 5 or 6 of this ordinance, a designated enforcement officer shall issue a warning notice prior to issuance of a citation or taking further enforcement action. With respect to violation of Section 3 of this ordinance, a designated enforcement officer may issue a citation or take other enforcement action without the issuance of such a warning notice.
- (2) **FORFEITURES:**
  - (a) An individual who violates Sec. 3 shall be subject to a forfeiture of not less than \$100 nor more than \$250 for each violation.
  - (b) Any person in charge who violates Sec. 3 shall be subject to a forfeiture of \$100 per day. No person in charge may be required to forfeit more than \$100 in total for all violations of Section 5 or 6 that may occur on a single day.
  - (c) A proprietor, employer or other person in charge of premises regulated hereunder who has violated this ordinance shall be subject to a forfeiture of \$100 per day. No proprietor, employer or other person in charge may be required to forfeit more than \$100 in total for all violations of this ordinance may occur on a single day.
- (3) **ISSUANCE OF CITATIONS**
  - (a) The procedure set forth in Sec. 66.0113(1) (a) (2000), Wis. Stats., for the use and issuance of citations for violations of this ordinance is adopted, authorized and incorporated for the enforcement of this ordinance.

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- (b) Form – The citation shall contain the following:
1. The name and address of the alleged violator.
  2. Factual allegations describing the alleged violation.
  3. The time and place of the offense.
  4. The section of the ordinance violated.
  5. A description of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so.
  6. The time at which the alleged violator may appear in court
  7. A statement, which, in essence, informs the alleged violator:
    - a. That a cash deposit based on the schedule established by this section may be made which shall be delivered to the Clerk of Court prior to the time of the scheduled court appearance.
    - b. That if a deposit is made, no appearance in court is necessary unless he/she is subsequently summoned.
    - c. That if a cash deposit is made and the alleged violator does not appear in court, he/she will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding him/her to appear in court to answer the complaint.
    - d. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
  8. A direction that if alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under Para. 7 above has been read. Such statement shall be brought with the cash deposit.
  9. Such other information as the County deems necessary.
- (c) Schedule of Deposits – Any person who receives a citation shall be subject to the appropriate forfeiture as set forth in this ordinance.
- (d) Who may Issue – The designated enforcement officer, as recognized under this ordinance shall have authority to issue citations.
- (e) The procedure set forth in Section 66.0113(3), Wis. Stats., relating to a violator's options and procedure on default, is hereby and incorporated herein.
- (f) Nonexclusivity.
- a. Adoption of this ordinance does not preclude the County Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matters.



- b. The issuance of a citation hereunder shall not preclude the County or any authorized officer from proceeding under any other ordinance or law by any other enforcement method to enforce any ordinance, regulation or order.
- c. Notwithstanding enforcement of this ordinance through issuance of citation, enforcement of this ordinance may be initiated upon a referral of a designated enforcement officer to the District Attorney, who may, in addition to the prosecution of a citation issued in conformance with this ordinance, seek an injunction to correct and/or abate the violation or seek court-imposed forfeiture under this ordinance by summons and complaint.

**Section. 8. Additional private prohibitions.**

Nothing in this ordinance shall prevent a proprietor or other person in charge of any private place from prohibiting smoking in any indoor or outdoor area under their control.

**Section. 9. Other applicable laws or regulations.**

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by any other law or regulation.

**Section. 10. Severability.**

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or its applications.

Funding Source and Amount: Not Applicable  
 Finance Committee Advised: Not Applicable  
 Recommendation: Not Applicable  
 Effective date: Upon Passage and Publication

Approved as to Form: \_\_\_\_\_  
Jeffrey B. Fuge, Corporation Counsel

Date Submitted to the Polk County Board: \_\_\_\_\_

Sponsored and submitted by the Board of Health:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C10

At its regular business meeting on \_\_\_\_\_, the Polk County Board of Supervisors adopted the above ordinance, Ordinance No. \_\_\_\_ -10: POLK COUNTY SMOKE-FREE AIR ORDINANCE, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_, against.

\_\_\_\_\_  
William Johnson, IV, County Board Chairperson

Attest: \_\_\_\_\_  
Carole Wondra, Polk County Clerk

The Polk County Smoke Free Ordinance was published in the Inter-County Leader on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carole Wondra, County Clerk

C11

**THE SMOKING BAN**

**A WISCONSIN DEPARTMENT OF JUSTICE ADVISORY MEMORANDUM ON  
2009 WI ACT 12  
(July 2, 2010)**

**I. INTRODUCTION**

This Wisconsin Department of Justice (DOJ) memorandum (the "Advisory") is intended to assist law enforcement and other groups in addressing the new requirements established by 2009 Wisconsin Act 12 that relate to smoking in public places. The Advisory summarizes the requirements of Act 12 and how the Act is enforced. Finally, the Advisory concludes with some frequently asked questions about the Act.

**II. SUMMARY OF THE LAW**

Act 12, which takes effect July 5, 2010, amends the current law restricting smoking under Wis. Stat. § 101.123. Act 12 expands the breadth of the prohibition against smoking and limits the exceptions where smoking is prohibited. In particular, Act 12 lists fifteen specific enclosed places where smoking is prohibited and then includes a catch-all provision that prohibits smoking in all other "enclosed places" that are "places of employment" or that are "public places." Act 12 removes the general exception for designated smoking areas. It also retains from current law the four specific outdoor areas where smoking is prohibited. Additionally, Act 12 specifically prohibits smoking in sports arenas, bus shelters and public conveyances, even if those places don't meet the definition of "enclosed place."

Act 12 provides that any local ordinance regulating or prohibiting outside smoking must comply with Act 12, applies only to public property under the municipality's jurisdiction, and must allow a "person in charge" of restaurants, taverns, private clubs, or retail establishments to designate an outside smoking area within a reasonable distance from any entrance to the establishment.

Finally, Act 12 requires a "person in charge" of a place subject to Act 12 to take the necessary steps to ensure compliance with the Act. Act 12 creates a legal obligation on smokers and persons in charge of places where smoking is prohibited and increases the penalty for violations of the Act. The Wisconsin Department of Justice and local law enforcement are authorized to enforce Act 12.

### III. IMPORTANT DEFINITIONS

**“Smoking”** – burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:

- A lighted cigar.
- A lighted cigarette.
- A lighted pipe.
- Any other lighted smoking equipment.

Wis. Stat. §101.123(1)(h)

**“Enclosed place”** – a structure or area that has all of the following:

- A roof.
- More than 2 substantial walls.

Wis. Stat. §101.123(1)(ak)

**“Place of employment”** – any enclosed place that employees normally frequent during the course of employment, including

- an office;
- a work area;
- an elevator;
- an employee lounge;
- a restroom;
- a conference room;
- a meeting room;
- a classroom;
- a hallway;
- a stairway;
- a lobby;
- a common area;
- a vehicle; or
- an employee cafeteria.

Wis. Stat. §101.123(1)(dj)

**“Public place”** – any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.

Wis. Stat. §101.123(1)(eg)

**“Person in charge”** – the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section.

Wis. Stat. §101.123(1)(d)

**“Substantial wall”** – a wall with no opening or with an opening that either does not allow air in from outside or is less than 25 percent of the wall’s surface area.<sup>1</sup>

Wis. Stat. § 101.123(1)(id)

#### IV. THE PROHIBITION ON SMOKING

Starting July 5, 2010, smoking is not permitted in “enclosed places” that are “places of employment” or “public places.” Wis. Stat. § 101.123(2)(a)(9). Additionally, smoking is specifically prohibited in the following enclosed places and outdoor areas:

- State Capitol and immediate vicinity;
- Residence halls of colleges and universities (including any location 25 feet or less from a residence hall or dormitory owned or operated by the Board of Regents of the University of Wisconsin System);
- Day care centers (including outdoor premises when children are present);
- Educational facilities;
- Correctional facilities (and anywhere on the grounds of a Type 1 juvenile correctional facility);
- State institutions (mental health, developmentally disabled persons);
- All restaurants and taverns;
- All retail establishments;
- Private clubs (any facility used by an organization that limits membership and is organized for recreational, social, political etc. purposes);
- Common areas of multi unit residential properties;
- Hotels, motels, bed & breakfasts, and tourist rooming houses;
- All municipal buildings;
- Sports Arenas of all kinds including Lambeau Field, Miller Park, stadiums, pavilions, gymnasiums, swimming pools, or other buildings where spectator sporting events are held (whether or not they fit the definition of an enclosed space);
- Health and medical centers including hospitals, physician’s offices, treatment centers;
- Inpatient health care facilities (county home, nursing homes, hospice, veteran’s home); and
- Theaters.

<sup>1</sup> Originally the Act defined “substantial wall” as “a wall with an opening that may be used to allow air in from the outside that is less than 25 percent of the wall’s surface area.” However, this definition was revised on May 11, 2010, by 2009 Wis. Act 276.

Additionally, no person may smoke in any of the following, regardless of whether they constitute an "enclosed place:"

- Sports arenas (defined as any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held);
- Bus shelters, public transit.

**V. EXEMPTIONS**

Act 12 has limited the exemptions to the smoking ban. Smoking is allowed in private residences and certain residence rooms in assisted living facilities. There is a limited exemption for retail tobacco stores or tobacco bars that were in existence prior to June 3, 2009, and only the smoking of cigars or pipes is allowed in such establishments.

Notably, Wisconsin law previously provided exemptions to bowling centers, taverns, halls used for private functions, certain restaurants, rooms where the main occupants are smokers, and areas of facilities used for manufacturing or assembly. Now, all of these types of businesses must be smoke-free under Act 12. Furthermore, Act 12 eliminates the general exception for designated smoking areas and the ability to designate smoking areas in enclosed indoor locations.

**VI. RESPONSIBILITIES OF PERSONS IN CHARGE**

Act 12 requires persons in charge of places where smoking is prohibited to take steps to ensure compliance with the Act. A person in charge of a location where smoking is prohibited under Wis. Stat. §102.123 may not allow any person to smoke at the location. Wis. Stat. §102.123(2m)(a). A person in charge may not provide matches, ashtrays, or other equipment for smoking at a location where smoking is prohibited. Wis. Stat. §102.123(2m)(b). And, a person in charge shall make "reasonable efforts" to prohibit persons from smoking by:

- Posting signs;
- Refusing to serve a person smoking in a restaurant, tavern, or private club; and
- Asking a person who is smoking to refrain and, if the person refuses to do so, asking the person to leave.

Wis. Stat. §102.123(2m)(c).

If the person who smokes refuses to leave, the person in charge shall immediately notify an appropriate law enforcement agency of the violation. Wis. Stat. §102.123(2m)(d). Finally, a person in charge may take measures other than those listed

in the statute to prevent persons from being exposed to smoking or to further ensure compliance with the law. Wis. Stat. §102.123(2m)(e).

Notably, Act 12 does not require that a person in charge be onsite; however, certain responsibilities created by Act 12 seem to apply to onsite actions of a person in charge. *See* Wis. Stat. § 101.123(2m)(b). For example, the Act sets forth minimum requirements for a person in charge to ensure compliance, including “Asking a person who is smoking to refrain and, if the person refuses to do so, asking the person to leave.” Other requirements, such as the signage provisions, appear to impose a statutory duty on a “person in charge,” regardless of the person’s presence onsite.

## VII. PENALTIES

**Individual smokers** – A person smoking in a place where smoking is prohibited may be required to pay a forfeiture of \$100 to \$250. Wis. Stat. §101.123(8)(a).

**Persons in charge** – If a person in charge fails to meet his/her responsibilities under Act 12, the person in charge must receive a warning notice for the first offense; however, subsequent offenses shall receive a citation and forfeiture of \$100 for each violation. No person in charge may be required to forfeit more than \$100 in total for all violations occurring on a single day. Wis. Stat. § 101.123(8)(dm)-(d).

## VIII. ENFORCEMENT

Pursuant to Wis. Stat. § 165.60, both the Wisconsin Department of Justice and local law enforcement are authorized to enforce the provisions of the smoking ban. The Wisconsin Department of Justice’s authority is to enforce, not prosecute, the Act. Wis. Stat. § 165.60 (providing that enforcement power is the same as those “powers conferred by law upon sheriffs and municipal police officers”). Primary enforcement authority lies with local law enforcement; and the Wisconsin Department of Justice will only lead enforcement efforts on violations that are statewide in nature, importance or influence.

District attorneys are responsible for prosecuting forfeiture actions for violations of the Act. Wis. Stat. § 778.12. In addition, state or local officials or any affected party may institute an action to enjoin repeated violations of the statute. Wis. Stat. § 101.123(9).

Act 12 does not authorize the use of citations by law enforcement as a mechanism to enforce the smoking ban. Citations are an exception to the general rule that civil complaints are used to enforce violations of civil duties where forfeitures are authorized. *See* Wis. Stat. §§ 778.02 and 778.25. Notably, Act 12 did not revise Wis. Stat. § 778.25, which authorizes the use of citations with regards to certain limited violations.

Since Act 12 does not preclude enactment of local ordinances that are consistent with state law, depending on the circumstances, a municipality can enact an ordinance incorporating the terms of the smoking ban and authorizing use of citations to enforce the local ordinance. *See* Wis. Stat. §101.123(4m). Such ordinances may be enforced and prosecuted consistent with the enforcement and prosecution of other local ordinances.

Finally, individuals wishing to report violations should be directed to local law enforcement for follow-up. A statewide complaint phone line (1-800-NO-SMOKE) and website ([www.WIBetterSmokeFree.com](http://www.WIBetterSmokeFree.com)) will also be available to collect and forward complaints to local law enforcement.

## IX. LOCAL AUTHORITY

Act 12 specifically preserves the authority of a county, city, village or town to enact ordinances, or of any school district to adopt policies, that protect the health and comfort of the public. Wis. Stat. §101.123(4m). Under Act 12, however, county, city, village, or town ordinances and school district policies regulating or prohibiting outside smoking may apply only to public property under the jurisdiction of the county, city, village, town, or school district and:

- Such ordinances shall allow a restaurant, tavern, private club, or retail establishment to designate an outside area that is a “reasonable distance” from any entrance for smoking; and
- The ordinance may not define the term “reasonable distance” or set any specified measured distance as being a “reasonable distance.”

Wis. Stat. §101.123(4m)

A municipality seeking to enact an ordinance regulating or prohibiting smoking, however, will also have to consider whether it has authority independent of Act 12 to enact such an ordinance and whether the ordinance is preempted by Act 12. Villages and cities have constitutional “home rule” powers pursuant to Article XI, Section 3 of the Wisconsin Constitution; and statutory home rule authority to act for the health, safety, and welfare of the public pursuant to Wis. Stat. §§ 61.34(1) and 62.11(5). Counties possess similar statutory home rule authority pursuant to Wis. Stat. §§ 59.03; and towns that have adopted village powers have home rule authority pursuant to Wis. Stat. § 61.34(1).

Even where a municipality has home rule authority to enact an ordinance, however, if an ordinance addresses a matter that is solely or chiefly of state-wide concern, a municipality’s regulatory powers are limited. *DeRosso Landfill Co. v. City of Oak Creek*, 200 Wis. 2d 642, 651, 547 N.W.2d 770, 773 (1996). In areas of state-wide concern municipalities may enact ordinances in the same field and on the same subject covered by state legislation only where such ordinances do not conflict with, but rather complement, the state legislation. *Id.* Factors to consider in analyzing preemption are: whether the legislature has expressly withdrawn the power of municipalities to act;



whether the ordinance logically conflicts with state legislation; whether the ordinance defeats the purpose of the state legislation; or whether the ordinance violates the spirit of state legislation. *Id.* at 651-652.

#### FREQUENTLY ASKED QUESTIONS:

**Q1:** *Can a municipality enact an ordinance that defines the term "enclosed place" or "substantial wall" in a manner that allows it to prohibit smoking in places that are not subject to the prohibitions in Act 12?*

**A:** A municipality may not restrict outside smoking except on public property under its jurisdiction and so long as such ordinances allow a restaurant, tavern, private club, or retail establishment to designate an outside smoking area that is a "reasonable distance" from any entrance. With respect to indoor smoking prohibitions, Act 12 does not limit a municipality's authority to enact an ordinance that protects the health and comfort of the public. Wis. Stat. §101.123(4m). Act 12 does not expressly define "outside smoking" or "inside smoking." To the extent a local ordinance defines "enclosed place" or "substantial wall" in a manner that is expressly preempted by the state law, logically conflicts with state law, defeats the purpose of the state law, or violates the spirit of the state law, it would be preempted.

**Q2:** *Does a wall with a window or door that makes up more than 25% of the surface area of the wall constitute a "substantial wall" if the window or door is closed?*

**A:** Yes. Act 12 defines "substantial wall" as "[1] a wall with no opening or [2] with an opening that either does not allow air in from outside or is less than 25 percent of the wall's surface area." Thus, the opening must be larger than 25% of the wall's surface area *and* allow in air from the outside if the wall is not to be considered a substantial wall. Closing all openings or partially closing some or all openings, such that less than 25% of a wall's surface area is allowing in air from the outside, makes the wall a "substantial wall" for purposes of the Act.

**Q3:** *Can a municipality regulate outside smoking?*

**A:** To a limited degree. Under Act 12, municipal ordinances regulating or prohibiting outside smoking would need to satisfy the following requirements:

- Comply with the purpose of Act 12 and protect the health and comfort of the public;
- Apply only to public property under the jurisdiction of the county, city, village, town, or school district;
- Allow a restaurant, tavern, private club, or retail establishment to designate an outside area that is a "reasonable distance" from any entrance for smoking; and

- Refrain from defining the term “reasonable distance” or setting any specified measured distance as being a “reasonable distance.”

*Q4: Who has the authority to enforce the smoking ban pursuant to Act 12?*

**A:** Both local law enforcement personnel and the Wisconsin Department of Justice have authority to enforce Act 12. Prosecution of forfeiture actions rests with the district attorneys; though local officials may prosecute municipal ordinances that are not preempted. All affected individuals may bring a civil action to enjoin violations of the Act.

*Q5: Can a municipality adopt an ordinance giving authority to a person or agency other than the police department to enforce a smoking ban?*

**A:** Act 12 does not prohibit municipalities from enacting local ordinances that vest enforcement authority in an agency other than law enforcement. However, no ordinance may regulate subject matter preempted by state law.

*Q6: Who is a “person in charge” and does such a person include any employee of a bar or restaurant who is working at the time of the smoking incident?*

**A:** Act 12 defines “Person in charge” as the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a form of public transportation or at a location where smoking is prohibited or regulated. Because an employee of a restaurant is an agent of the restaurant owner, an employee may be a “person in charge.” Enforcement authorities have discretion when determining who should be referred to a district attorney for a forfeiture action.

*Q7: Can enforcement be done through a citation?*

**A:** Act 12 does not authorize the use of citations by law enforcement as a mechanism to enforce the state smoking ban. District attorneys, therefore, will have to use a civil complaint when bringing forfeiture actions to enforce Act 12.

Citations may be used to enforce local ordinances that are not preempted by state law, should the ordinance provide for such an enforcement mechanism.

*Q8: Who provides the smoke-free signage required by Act 12?*

**A:** Persons in charge are obligated to comply with the signage provisions of Act 12. However, the Department of Commerce shall, by rule, specify uniform dimensions and other characteristics of the signs required under Act 12. Resources for businesses and employers, including signs, are already available at: [www.WIBetterSmokeFree.com](http://www.WIBetterSmokeFree.com)

**Q9:** *Are bleachers used for watching softball games and tournaments at village, city and county parks to be smoke-free?*

**A:** It will depend on the circumstances, but Act 12 does not prohibit smoking in such places unless the bleachers are in a sports arena or some enclosed place. Act 12 defines "sports arena" as any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.

**Q10:** *Are there any guidelines as to how local law enforcement should deal with complaint calls and letters?*

**A:** No. Local law enforcement must use its discretion as to how to handle complaints and what resources and protocols it will establish to enforce Act 12. This is no different than enforcing laws (and often complementary ordinances) that provide for forfeitures in other circumstances.

**Q11:** *Will someone else (other than local law enforcement) be coming out to tell an operator if their structure is in compliance with the Act or not? Or will that be the role of local law enforcement?*

**A:** It is an operator's responsibility to comply with state law. Nothing in Act 12 imposes a duty on law enforcement to inform an operator whether smoking is permitted at a facility, except that a forfeiture action for certain violations of the Act may not be initiated against a "person in charge" unless that person has received a prior warning notice.

**Q12:** *Where do complaints get collected?*

**A:** Individuals wishing to report violations shall be directed to local law enforcement for follow-up. A statewide complaint phone line (1-800-NO-SMOKE) and website ([www.WIBetterSmokeFree.com](http://www.WIBetterSmokeFree.com)) will also be available through the Department of Health Services to collect and forward complaints to local law enforcement. When a complaint is received through the phone line or through the website, a letter will be sent to local law enforcement with a copy going to the establishment about which the complaint was filed. Local law enforcement will have to use its discretion in responding to complaints.

Prepared by:  
Abigail C. S. Potts, Assistant Attorney General

D

**RESOLUTION \_\_\_\_\_**

**Polk County Land Records Modernization Plan 2011 - 2015**

**WHEREAS**, the Polk County Board of Supervisors created the Polk County Land Information Department in 1990 in compliance with the Wisconsin Land Information Program (WLIP) and, since July 1990, Polk County been collecting funds through document recording fees through the Register of Deeds Office in support of Land Records Modernization; and,

**WHEREAS**, the WLIP requires Counties to submit a Land Records Modernization Plan (Plan) every 5 years in order to retain the recording fees in order to participate in the WLIP and be eligible for grants and other assistance from the WLIP and, the previous Polk County Plan (2006-2010) was adopted and accepted by the Wisconsin Land Information Board (WLIB) in May 2006; and,

**WHEREAS**, administrative rules were promulgated by the WLIB in 2004 with instructions for counties to develop updated Plans in 2005 and 2010; and,

**WHEREAS**, the Polk County Land Information Department in coordination with several other County Departments have collaborated to update the Polk County Land Records Modernization Plan 2011 - 2015; and,

**WHEREAS**, Polk County Land Information Committee adopted the updated Plan for 2011-2015 on August 18, 2010;

**NOW, THEREFORE, BE IT RESOLVED**, that the Polk County Board of Supervisors recognizes the importance of and the benefits obtained through continued participation in the Wisconsin Land Information Program and hereby adopts the Polk County Land Records Modernization Plan 2011-2015, as approved by the Polk County Land Information Committee, for submittal to the State Department of Administration.

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Funding Amount: 0                      Funding Source: N/A

Date Finance Committee Advised: N/A

Effective Date: Upon passage

Approved as to form: Jeffrey B. Fuge  
Jeffrey Fuge, Corporation Counsel

Date Submitted to County Board: September, 2010                      County Board Action \_\_\_\_\_

SUBMITTED BY: Polk County Land Information Committee

Kim O'Connell  
Kim O'Connell, Chair

Larry Voelker  
Larry Voelker, Vice-Chair

Craig Moriak  
Craig Moriak

Wendy Rattel  
Wendy Rattel

Herschel Brown  
Herschel Brown

RESOLUTION \_\_\_\_\_

E.

**CREATION OF THE POLK COUNTY LAND COUNCIL**

**WHEREAS**, 1989 Wisconsin Act 31 and 1989 Wisconsin Act 339 created a statewide Land Information Program for the purpose of facilitating land records modernization in each county in Wisconsin; and,

**WHEREAS**, the Polk County Board of Supervisors created the Polk County Land Information Department in 1990 in compliance with the Wisconsin Land Information Program (WLIP) to direct and supervise Polk County's Land Information Program and Land Information System; and,

**WHEREAS**, pursuant to the provisions of Section 59.72, of the *Wisconsin Statutes*, each county in Wisconsin, including Polk County, funds its Land Information Program with real estate document recording fees that are charged in the office of the Register of Deeds; and

**WHEREAS**, 2009 Wisconsin Act 314 was enacted on May 12, 2010, became effective on June 25, 2010, and renumbered, amended, and created statutory language which relates to changing the fees collected by a Register of Deeds, the redaction of social security numbers from electronic documents, and changes to the land information program; and,

**WHEREAS**, prior to the enactment of 2009 Wisconsin Act 314, in order for a county to retain part of the fee for recording or filing each instrument that is recorded or filed in the office of Register of Deeds, for use by a county to fund its land information program, the county must have established a land information office, and, in order for a county to apply to the department of administration for a grant for a land information project, the county must have established a land information office; and,

**WHEREAS**, pursuant to the provisions of Section 59.72, of the *Wisconsin Statutes*, as amended by 2009 Wisconsin Act 314, in order for a county to retain part of the fee for recording or filing each instrument that is recorded or filed in the office of Register of Deeds, for use by the county fund its land information program, the county must have established a land information office and created a land information council, and, in order for a county to apply to the department of administration for a grant for land information project, the county must have established a land information office and a land information council; and,

**WHEREAS**, 2009 Wisconsin Act 314 created Section 59.72(3m), of the *Wisconsin Statutes*, which defines the membership and duties of the land information council; and,

**WHEREAS**, Section 59.72(3m), of the *Wisconsin Statutes*, states that a land information council shall consist of not less than eight members and shall consist of the register of deeds, the treasurer, and, if one has been appointed, the real property lister or their designees, and the following members appointed by the board:

- A member of the county board.
- A representative of the land information office.

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- A realtor or a member of the Realtors Association employed within the county.
- A public safety or emergency communications representative employed within the county.
- The county surveyor or a registered professional land surveyor employed within the county.
- Any other members of the board or public that the board designates

**WHEREAS**, Section 59.72(3m), of the *Wisconsin Statutes*, states that the duties of a land council are to review the priorities, needs, policies, and expenditures of a land information office established by the Board of Supervisors and advise the county on matters affecting the land information office; and,

**WHEREAS**, the Polk County Land Information Committee recommends that the Polk County Board of Supervisors create a Polk County Land Council so that Polk County will continue to be authorized to retain part of the fee for recording or filing each instrument that is recorded or filed in the Office of the Polk County Register of Deeds, for use by Polk County to fund its Land Information Program, and so that Polk County will continue to be authorized to apply to the Wisconsin Department of Administration for grants for land information projects;

**SO, NOW, THEREFORE, BE IT RESOLVED**, that the Polk County Board of Supervisors hereby creates a Polk County Land Information Council; and,

**BE IT FURTHER RESOLVED**, that the duties of the Land Council shall be to review the priorities, needs, policies, and expenditures of the Polk County Land Information Program and advise Polk County on matters affecting the Land Information Program; and,

**BE IT FURTHER RESOLVED**, that the Polk County Land Council shall consist of the following members appointed by the County Administrator and confirmed by the Polk County Board of Supervisors:

1. Register of Deeds
2. Treasurer
3. Real Property Lister or their designee
4. Land Information Committee Chair or their designee as a member of the Board
5. Land Information Director as a representative of the Polk County Land Information Office
6. Realtor or member of the Realtors Association employed within Polk County
7. Communications Administrator as a public safety or emergency communications representative
8. County Surveyor as a registered professional land surveyor; and,

**SO, NOW, THEREFORE, BE IT RESOLVED**, that the initial terms of the members of the Polk County Land Council who will be appointed by the County Administrator and confirmed by the Polk County Board of Supervisors shall be for a period of time commencing on the date that the appointments will be confirmed by the Polk County Board of Supervisors and ending on April 29<sup>th</sup>, 2014, both inclusive; and,

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**BE IT FURTHER RESOLVED**, that commencing on April 30, 2014, and continuing thereafter, the terms of the members of the Polk County Land Council who will be appointed by the County Administrator and confirmed by the Polk County Board of Supervisors shall be for a period of 4 years; and,

**BE IT FURTHER RESOLVED**, that the Polk County Land Council shall meet on an as-needed basis, but not more than two times each year; and,

**BE IT FINALLY RESOLVED**, that the Polk County Board of Supervisors will not pay either per diem meeting payments or reimbursement for mileage to any members of the Polk County Land Council who will attend meetings of the Polk County Land Council.

**Funding Amount:** 0                      **Funding Source:** N/A

**Date Finance Committee Advised:** N/A

**Effective Date:** Upon passage

**Approved as to form:** Jeffrey B. Fuge  
Jeffrey Fuge, Corporation Counsel

**Date Respectfully Submitted to County Board:** September 21, 2010                      **County Board Action** \_\_\_\_\_

**SUBMITTED BY: Polk County Land Information Committee**

[Signature]  
**Kim O'Connell, Chair**

[Signature]  
**Larry Voelker, Vice-Chair**

[Signature]  
**Craig Moriak**

[Signature]  
**Wendy Rattel**

[Signature]  
**Herschel Brown**



Ordinance No \_\_\_\_\_  
Amendment to the Polk County Private Sewage System Ordinance

WHEREAS, as part of its responsibilities to administer and enforce regulations of private sewer systems in Polk County, the Land Information Department is mandated pursuant to Wisconsin Administrative Code, sections Comm 83.54 and 83.55, to develop and maintain an inventory of all private sewer systems in Polk County and to track required maintenance including pumping on each system; and

WHEREAS, under the existing county ordinance, Polk County has already developed a records maintenance program; and

WHEREAS, the costs of maintaining such an inventory tracking system should be the responsibility of those who utilize such systems, rather than the County taxpayers as a whole; and

WHEREAS, Wisconsin Statute Section 145.20(4) allows counties to assess a fee to recover these record keeping costs against those owners of private sewer systems rather than against all County taxpayers, and

WHEREAS, the Land Information Department estimates that it would cost approximately four (\$4.00) dollars annually per private sewer system to develop, maintain, administer and enforce the tracking system requirements mandated by the referenced administrative code provisions.; and

WHEREAS, the fees may be recovered in the same manner as municipalities make property assessments pursuant to Wisconsin Statute Section 66.0703; and

WHEREAS, pursuant to Wisconsin Statute Section 66.0628, The Polk County Board has determined that the proposed fee bears a reasonable relationship to the service for which the fee is imposed.

NOW, THEREFORE, the County Board of Supervisors of the County of Polk does ordain to amend and renumber the Polk County Private Sewage System Ordinance, as follows:

Section 1: Purpose: The underlying principles of this ~~chapter ordinance~~ ordinance are basic goals in environment, health and safety accomplished by proper siting, design, installation and maintenance of private sewage systems.

Section 2: Private Sewage Systems

(a) Sewage System Construction and Maintenance Standards

- (1) Private sewage system location, construction, materials and maintenance shall be as specified in ~~HLR-81 through 87~~ Comm 83, 84, 85, 87, 91, Wisconsin Administrative Code, authorized in Chapter 145 and 59.06570 Wisconsin Statutes hereby incorporated by reference and which shall apply until amended and then shall apply as amended.
- (2) The Zoning Administrator or designee shall act as the Polk County issuing agent of the statutes and is hereby assigned the duties of administering the Private Sewage System Program.

- (b) Wisconsin Fund Maintenance Program
- (1) The applicant for a sanitary permit shall be provided written notice of the maintenance program at the time the sanitary permit is issued. The records of this notification shall be maintained by the issuing agent. Upon sale of the property, the owner shall provide written notification of the maintenance program to the buyer.
  - (2) Every three years after the installation of a private sewage disposal system, the owner shall be provide a certification form by the issuing agent at least 30 days prior to its due date. The certification form must be co-signed by the owner and be completed by either:
    - a. A licensed master or master restricted sewer plumber
    - b. A licensed septic tank pumper
    - c. County or state personnel licensed to inspect septic systems.
  - (3) The certification form will state that:
    - a. The private sewage disposal system is in proper operating condition.
    - b. The septic tank was recently pumped by a licensed septic tank pumper or it was inspected and is less than one-third full of sludge and scum.
  - (4) Circumstances such as inclement weather, road weight restrictions and site limitations may necessitate a delay in septic tank maintenance until conditions permit.

Section 3: Maintenance and Management:

- (a) All private sewage systems shall be managed and maintained in accordance with Wis. Admin. Code. Chs. Comm 83 and 84 and this Ordinance.
- (b) The property owner or the owner's agent shall report to the Department each inspection, maintenance or servicing event, in accordance with Wis. Admin. Code Ch. Comm 83 and this Ordinance.
- (c) The property owner or the owner's agent shall submit a copy of an appropriate maintenance agreement and/or maintenance servicing contract to the Department prior to sanitary permit issuance.
- (d) The property owner or the owner's agent shall submit a new or revised maintenance agreement and/or maintenance servicing contract to the Department whenever there is a change to such document(s).
- (e) The property owner or the owner's agent shall submit a new maintenance agreement and/or maintenance servicing contract to the Department prior to expiration of an existing maintenance agreement and/or maintenance servicing contract.

(f) The owner of a private sewage system is responsible for fulfillment of the requirements of this section.

Section 4: Fees and Charges:

Fees shall be as determined and adjusted from time to time by the Land Information Committee and as maintained by the Land Information Department in its "Polk County Land Information Department Fee Schedule." Pursuant to Wis. Stat. § 66.0628(2), any fee imposed shall have a reasonable relationship to the service for which the fee is imposed.

- (a) Refunds. At the discretion of the Department, after a sanitary permit has been issued, the fee or portion thereof may be refunded to the party who originally paid the fee, upon submittal to the Department of a written request signed by the permit holder, to void the permit.
- (b) New fees. If a new fee is imposed or if a fee increased before an application has completed or a permit issued, the new fee or fee increase shall apply to the application and shall be paid before the permit is issued.
- (c) In addition to the foregoing fees as allowed by Wis. Stat. § 145.20(4), each owner of a private sewage system shall annually be charged a fee of \$4.00 (Four Dollars per private sewage system for the recordkeeping attributable to the inventory and tracking of the pumping and maintenance of each system, said fee to be recovered in the same manner as municipalities may make property assessments pursuant to Wis. Stat. § 66.0703.

Funding Source and Amount: Not Applicable  
 Finance Committee Advised: Not Applicable  
 Recommendation: Not Applicable  
 Effective date: Upon Passage and Publication  
 Approved as to Form: Jeffrey B. Fuge  
 Jeffrey B. Fuge, Corporation Counsel

Date Submitted to the Polk County Board: \_\_\_\_\_  
 Sponsored and submitted by the Land Information Committee:

<u>[Signature]</u>	<u>Craig Mouch</u>
<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	

At its regular business meeting on \_\_\_\_\_, the Polk County Board of Supervisors adopted the above ordinance, Ordinance No. \_\_\_ -10: Amending the Polk County Private Sewage System, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_, against.

William Johnson, IV, County Board Chairperson

Attest: \_\_\_\_\_  
 Carole Wondra, Polk County Clerk

Ordinance No. \_\_\_\_ -10: Amending the Polk County Private Sewage System was published in the Inter-County Leader on the \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Carole Wondra, County Clerk

G

RESOLUTION TO INCREASE THE FEE FOR THE EXPENSES OF TAKING TAX DEED BY POLK COUNTY

WHEREAS, pursuant to state law and county ordinance, Polk County has the authority and responsibility of collecting delinquent taxes through the foreclosure of tax liens (tax deed actions); and

WHEREAS, Polk County incurs costs to initiate the proceedings for the collection of delinquent taxes, such costs being a title search, certified letters, publications and employee staff time; and

WHEREAS, beginning in 1995, Polk County set such a fee of \$100 to be assessed against each tax delinquent parcel or real estate, and said fee was then the reasonable cost that the county incurred in such proceedings; and

WHEREAS, Polk County Treasurer's Office has recently reviewed the costs associated with the process of tax deed actions and has determined that presently the actual cost of such expenses exceeds \$165.00.

THEREFORE, NOW BE IT RESOLVED, that the Polk County Board of Supervisors determines that the reasonable costs incurred to initiate proceedings for the foreclosure of tax liens is \$165 to be assessed against each parcel of Real Estate Polk County starts tax deed action against.

BE IT FURTHER RESOLVED the Polk County Board of Supervisors approves a fee of \$165 to be assessed against each tax delinquent parcel or real estate subject to a legal action for the foreclosure of tax liens (tax deed) initiated by Polk County.

BE IT FURTHER RESOLVED that the fee increase will be effective when the title search is started on the parcels after passage of this resolution.

Funding Amount: None Funding Source: Not Applicable

Date Finance Committee Advised: August 25, 2010

Finance Committee Recommendation: Passage

Approved as to Form: Jeffrey B. Fuge  
Jeffrey B. Fuge, Corporation Counsel.

Date Submitted to County Board: September 21, 2010

Effective Date: Upon Passage

Sponsored by the Finance Committee

Gary P. Repton 8/25/10  
B. R. M... 8/25/10 Will... 08.25.2010  
... 8-25-10

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RESOLUTION TO INCREASE THE FEE FOR THE EXPENSES OF TAKING TAX DEED  
BY POLK COUNTY

At its regular business meeting held on September 21, 2010, the Polk County Board of Supervisors, enacted the above-entitled resolution, Resolution \_\_\_\_\_-10, Resolution To Increase the Fee for the Expenses of Taking Tax Deed by Polk County, by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

\_\_\_\_\_  
William Johnson, IV, Polk County Board Chairperson

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Carole Wondra, County Clerk

Dated: \_\_\_\_\_

H

RESOLUTION \_\_\_\_\_

Resolution to Authorize and Adopt a Contract for Medical Examiner Services for 2011 with Anoka County, Minnesota.

WHEREAS, the Polk County Medical Examiner has previously administered contracts with the Anoka County Medical Examiners Office for the provision of medical examiner services.

WHEREAS, through such contracts, the Polk County has received the expertise and professionalism of the Anoka County Medical Examiner for the provision of forensic autopsy services and other related medical examiner services.

WHEREAS on September 7, 2010, the Office of Corporation Counsel has submitted the proposed 2011 Contract for Medical Examiner Services to the Wisconsin Attorney General for a determination of proper form and compatibility with the laws of the State of Wisconsin and said determination remains pending.

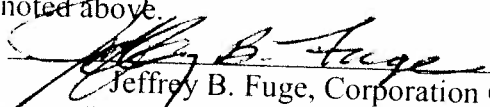
NOW, THEREFORE, BE IT RESOLVED, the Polk County Board of Supervisors authorizes and adopts on behalf of Polk County the Contract for Medical Examiner Services, attached hereto and incorporated herein.

BE IT FURTHER RESOLVED that the Polk County Medical Examiner shall administer said contract in all respects for Polk County.

BE IT RESOLVED that pursuant to Wisconsin Statute Section 66.0303(3) (a), that said contract is effective conditioned upon a determination of the Wisconsin Attorney that the contract is in proper form and compatible with the laws of the State of Wisconsin.



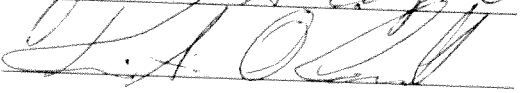
Funding Amount: \$26,000.  
Funding Source: County Levy as Authorized in the 2011 Budget for Department of Medical Examiner

Date Finance Committee Advised: 2011 Budget Process  
Finance Committee Recommendation: \_\_\_\_\_  
Effective Date: Upon passage, conditioned upon determination by the Wisconsin Attorney General, as noted above.

Approved as to form:   
Jeffrey B. Fuge, Corporation Counsel

Dated Submitted to County Board: \_\_\_\_\_  
County Board Action: \_\_\_\_\_

Submitted Upon Recommendation of the Polk County Public Protection and Judicial Committee:

  
 \_\_\_\_\_  
  
 \_\_\_\_\_  
  
 \_\_\_\_\_

At its regular business meeting on \_\_\_\_\_, the Polk County Board of Supervisors adopted the above-entitled resolution, Resolution \_\_\_\_-10: Resolution to Authorize and Adopt a Contract for Medical Examiner Services for 2011 with Anoka County, Minnesota, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.

\_\_\_\_\_  
William Johnson, IV, County Board Chairperson < Insert Other presiding Officer >

Attest: \_\_\_\_\_  
Carole Wondra, Polk County Clerk

Legal Note:

The above-resolution involves a proposed agreement which is authorized pursuant to Wisconsin Statute Section 66.0303, Municipal Interstate Cooperation. Pursuant to law, the resolution contains a condition precedent. The condition precedent is that before the agreement becomes effective the Wisconsin Attorney General shall approve the agreement as to form and compatibility with state law.

Under law, the agreement will be approved unless the Wisconsin Attorney General provides a finding that the agreement does not meet the statutory conditions. The finding of the Wisconsin Attorney General must also detail the specific respects in which the proposed agreement fails to meet the requirements of law. The failure of the Wisconsin Attorney General to disapprove a proposed agreement within 90 days of submission constitutes approval. In the event that the Wisconsin Attorney General provides no response, the agreement will be deemed approved and the effective date of the resolution will relate back to the day on which the resolution was adopted by the Polk County Board of Supervisors.



**Contract for  
Medical Examiner Services**

This CONTRACT is entered into by and between **Anoka County, Minnesota**, 2100 Third Avenue, Anoka, MN 55303 and **Polk County, Wisconsin**, 100 Polk Plaza, Balsam Lake, WI 54810.

RECITALS:

- 1.) Anoka County has appointed Dr. A. Quinn Strobl, Medical Examiner, who is a doctor of medicine licensed to practice medicine in the state of Minnesota and a forensic pathologist certified by the American Board of Pathology, as Medical Examiner for Anoka County pursuant to Minn. Stat. § 390.33.
- 2.) Dr. Quinn Strobl, with assistance of county staff in the Anoka County Medical Examiner's Office, provides Medical Examiner services as set forth in Minn. Stat. Chap. 390.
- 3.) Anoka County is willing to provide autopsy services to other counties upon terms and conditions as authorized by Minn. Stat. § 390.252.
- 4.) Polk County wishes to contract with Anoka County for the provision of autopsy services to Polk County.

THEREFORE, IT IS MUTUALLY AGREED:

- 1. TERM.
  - 1.1 This Agreement will commence on January 1, 2011 and will terminate on December 31, 2011.
  - 1.2 This Agreement may be terminated early as provided in Section 6. TERMINATION.
- 2. SERVICES.
  - 2.1 Upon request, Anoka County will provide autopsy services as described in Attachment A, which is incorporated into and made a part of this Agreement.
- 3. COMPENSATION.
  - 3.1 Polk County will pay Anoka County, as compensation for autopsy services provided annually, during the term of this Agreement, the amount of **\$26,000.00**, to be billed and paid quarterly in the amount of **\$6,500** as compensation for autopsy services provided during the term of this Agreement.

- 3.2 The agreed upon compensation is based upon an average of thirteen (13) autopsies per year at \$2,000.00 per autopsy and an additional 20% as and for the right to name Dr. Quinn Strobl as Polk County's Medical Examiner.
- 3.3 If a catastrophic event occurs that requires significantly more than the normal services, Polk County will reimburse Anoka for the actual cost of additional expenses incurred in performing the duties herein. Catastrophic event shall be defined as one where multiple deaths (5 or more) occur from a single event. If the parties dispute the amount of additional expenses, they hereby agree to (1) use mediation to resolve their difference, and if that fails, (2) to submit in binding arbitration in accordance with the practices and terms of the American Arbitration Association. Mediators and Arbitrators shall be picked by agreement, or failing that, each party shall choose one, who shall then meet and choose the actual arbitrator or mediator. Each party shall pay one-half the cost of the entire process.
4. AUDITS, REPORTS, RECORDS, DISCLOSURES, AND MONITORING.
- 4.1 Anoka County will maintain appropriate records related to services provided under this Agreement.
- 4.2 Anoka County agrees to allow Polk County, the State Auditor or legislative authority, or any of their duly authorized representatives at any time during normal business hours, and as often as they may deem reasonably necessary, access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices of Anoka County that are relevant to this Agreement, pursuant to Minn. Stat. § 16C.05, subd. 5.
5. STANDARDS AND LICENSES
- 5.1 Anoka County will provide services only with those personnel who are properly licensed by the State of Minnesota (or other regulatory authority).
- 5.2 Anoka County will comply with all applicable federal and state statutes and regulations as well as local ordinances now in effect or hereafter adopted.
6. TERMINATION.
- 6.1 This Contract will terminate under the following circumstances:
- 6.1.1 by the parties' mutual written agreement;
- 6.1.2 upon at least 3 months written notice specifying the termination date, given by either party, with or without cause;
- 6.1.3 if a party is in breach of a material obligation under this Agreement and has not cured the breach within 15 days of written notice specifying the breach, this Agreement will terminate immediately unless the other party consents to extend

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the cure period, which consent will not be unreasonably withheld so long as the breaching party has commenced cure during the 15 day notice period and pursues cure of the breach in good faith.

6.1.4 automatically without notice on December 31, 2011.

6.2 Termination of this Agreement shall not limit either party from pursuing any other remedies available to it, including injunctive relief, nor shall termination relieve Polk County of its obligation to pay all charges that accrued prior to such termination.

6.3 The parties' rights and obligations under this Agreement shall survive termination of this Agreement.

7. DATA PRACTICES.

7.1 Anoka County is required to comply with the provisions of the Minnesota government data practices act, Minn. Stat. Ch. 13, in collecting creating, receiving, maintaining, disseminating, or using data for any purpose in the course of its performance of this Agreement.

7.2 The parties both agree to abide by applicable statutes, rules, and regulations related to data privacy and as they may be amended.

8. NON-DISCRIMINATION.

8.1 The parties agree to comply with applicable federal or state laws and regulations and county policies related to affirmative action and non-discrimination.

9. INDEMNIFICATION.

9.1 Anoka County agrees that it will defend, indemnify, and hold harmless Polk County against any and all liability, loss, damages, costs, and expenses which Polk County may hereafter sustain, incur, or be required to pay by reason of any negligent act or omission or intentional act of Anoka County, its agents, officers, or employees which causes bodily injury, death, personal injury, property loss, or damage to another during the performance of services under this Agreement.

9.1.1 This duty to defend, indemnify and hold harmless by Anoka County shall exclude any and all negligent or intentional acts of Polk County, its employees, servants or agents.

9.1.2 Nothing in this Agreement waives any limitation on liability provided by Minn. Stat. Chap. 466 or Minn. Stat. §§ 3.732 et seq. or any other applicable law.

10. INDEPENDENT CONTRACTOR.

10.1 Nothing in this Agreement is intended or should be construed in any manner as creating or establishing a co-partner relationship between Anoka County and Polk County or as constituting Anoka County or its employees as the agent, representative, or employee of Polk County for any purpose.

11. MINNESOTA LAW

11.1 Minnesota laws govern all questions related to the Contract.

11.2 The parties will venue any proceedings related to this Agreement in the Anoka County District Court, State of Minnesota.

12. NOTICE

12.1 Notice is to be given in writing and either sent by mail or delivered in person.

12.1.1 Notice for Polk County will be directed to John Dinnies, Medical Examiner, 1005 West Main Street, Suite 700, Balsam Lake, WI 54810.

12.1.2 Notice for Anoka County will be directed to Jerry Soma, Human Services Division Manager, 2100 Third Avenue, Anoka, MN 55303.

12.2 Notice served by mail is deemed received 3 days after mailing.

13. MODIFICATIONS

13.1 Material alterations, modifications or variations of the terms of this Agreement, shall be valid and enforceable only when they have been reduced to writing as an amendment and signed by the parties.

14. MERGER

14.1 It is understood and agreed that the entire agreement of the parties is contained here and that this contract supersedes all oral agreements and negotiations between the parties relating to this subject matter. All items referred to in this contract are incorporated or attached and deemed to be part of the contract.

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The parties have entered into this Agreement as of the date first written above.

**County of Anoka, Minnesota**

**County of Polk, Wisconsin**

By: \_\_\_\_\_  
Dennis D. Berg  
Chair, Board of Commissioners

By: \_\_\_\_\_  
Chair, Board of Supervisors

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Terry L. Johnson  
County Administrator

By: \_\_\_\_\_

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Assistant County Attorney

\_\_\_\_\_

Attachment AAutopsy Services to be Provided

1. Reliable and issue-focused forensic autopsy services on a timely basis.
2. Autopsies performed by forensic pathologist.
3. Compliance with Joint Commission on Accreditation of Hospitals Organization, College of American Pathology, National Association of Medical Examiner guidelines for autopsy procedures. Accreditation by the National Association of Medical Examiners.
4. Assistance in special techniques for positive identification.
5. Toxicology performed by an accredited forensic toxicology laboratory.
6. Record maintenance of photographs, toxicology and basic radiographs.
7. Weekday, weekend and holiday coverage.
8. Timely communication with family, including notification of legal next of kin, and notification to identified attending physician.
9. Notifying next of kin when an autopsy is performed; sending a personalized letter to family to accompany the autopsy report on non-criminal cases.

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Resolution to Amend Certain Polk County Personnel Policies: Policy No. 202, *Personnel Records*; Policy No 302, *Benefit Administration for the Non-Represented Employees*; and Policy No 703, *Sexual Harassment*.

TO THE HONORABLE SUPERVISORS OF THE POLK COUNTY BOARD:

¶1 WHEREAS, the Polk County Board of Supervisors have confirmed the appointment of a County Administrator, resulting in a need to revise the certain personnel policies to conform with the statutory responsibilities of the County Administrator;

¶2 NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors amends the following personnel policies:

- Policy No. 202, *Personnel Records*;
- Policy No. 302, *Benefit Administration for the Non-Represented Employees*; and
- Policy No. 703, *Sexual Harassment*,

consistent with the respective proposed amended policies, which are attached hereto and incorporated herein.

Funding Amount and Funding Source: Not Applicable  
 Date Finance Committee Advised: Not Applicable  
 Finance Committee Recommendation: Not Applicable  
 Date Personnel Committee Advised: September 9, 2010  
 Personnel Committee Recommendation: Adoption  
 Effective Date: Upon Passage  
 Approved as to form: Jeffrey B. Fuge  
 Jeffrey B. Fuge, Corporation Counsel  
 Dated Submitted to County Board: September 21, 2010  
 County Board Action: \_\_\_\_\_

Sponsored and Submitted upon Recommendation of the Personnel Committee:

Russell E. Howard 9-10-10 Wasson J. [Signature] 9/10/10  
Patricia M. Schmidt Ken [Signature]  
James A. Edgell

At its regular business meeting held on September 21, 2010, the Polk County Board of Supervisors enacted the above-entitled resolution, Resolution \_\_\_\_\_-10: Resolution to Amend Certain Polk County Personnel Policies: Policy No. 202, *Personnel Records*; Policy No 302, *Benefit Administration for the Non-Represented Employees*; and Policy No 703, *Sexual Harassment*, by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

\_\_\_\_\_  
William Johnson, IV, Polk County Board Chairperson

Dated: \_\_\_\_\_

Attest: \_\_\_\_\_  
Carole Wondra, County Clerk

Dated: \_\_\_\_\_

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**Polk County Wisconsin**

**PERSONNEL RECORDS**

**Policy 202**  
**Effective Date: 04-20-82** **Revision Date: 02-24-98, 6-20-2006,**  
**3-11-08**

Personnel Records

There shall be one (1) Official Personnel record for every County employee.

- A. Location & Responsibility - Official Personnel Records of individual Polk County employees will be maintained by the Employee Relations Office. The location of the Records will be communicated to new employees by the Department Head. The personnel Records of the Employee Relations Director shall be maintained by the County Administrator.
- B. Confidentiality - The individual Personnel Record is regarded as confidential material and will be treated as such. The only persons with access to the Records will be the employee, the Employee Relations Office and Legal Counsel. County Board supervisors, immediate supervisors, department heads, the employee's labor representative, and the personnel committee will have access on a need-to-know basis only as determined by legal counsel and/or the Employee Relations Office. Employee name, salary, date of original employment, current position title, date and amount of most recent salary change shall be the only information authorized for release to the public. The Employee Relations Office and/or a designee shall have the power to release such information. The Employee Relations Director and or designee shall have the discretion to delegate custodial authority of portions of the Records when such delegation shall not adversely effect the employee's expectation of privacy and such delegation is reasonably necessary for the day-to-day business of the County. Further, the custodian of the Personnel Records shall comply with any state or federal law, including HIPAA, in carrying out their duties.
- C. Employee Review - An employee may review his/her Personnel Record upon request at a mutually agreed upon time between the Employee Relations Office and employee. The review shall only be made in the presence of the Employee Relations Director or designee and the Records may not be removed from their presence.
- D. Contents - All information relevant to an employee's position with the County will be maintained in the Personnel Record. Such information may include, but

Deleted: Finance Director

Deleted: February 11, 2010



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not be limited to the following:

1. A copy of the original application for employment and the responses to confidential inquiries made of former employers, schools, etc. pre-employment medical exam results.
2. A job description.
3. Copies of performance appraisals/evaluations.
4. Copies of all personnel actions affecting the employee since initial employment such as letters or notices of promotion, reclassification, transfer or demotion.
5. Job postings signed by the employee.
6. Medical certificates or documents supporting medical leaves of absence.
7. Educational credentials obtained since initial employment.
8. Record of training programs completed/attended.
9. Information update records such as change of address, who to notify in case of emergency, etc.
10. Vacation record, personal leave record, sick leave record.
11. Copies of disciplinary notices or letters.
12. Grievances/appeals.
13. All work related correspondence between the employee and the county.
14. Union affiliation records.
15. Accident reports (a copy must also be sent to the safety director).
16. Meritorious statements or awards.
17. Exit interview form
18. Orientation interview form.

E. Treatment of suspensions, reprimands, and warnings.

All warnings, reprimands and suspensions will be immediately forwarded to Employee Relations for inclusion in the personnel record.

F. Storage and Disposal - Inactive personnel records shall be transferred to storage one year after termination of an employee. Records will be reactivated when an employee is reinstated/re-employed within Polk County.

Inactive personnel records can be destroyed in compliance with Polk County's record retention policy. In the event a lawsuit has been filed regarding the employee the record will be kept till the suit is settled.

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Polk County Wisconsin

**BENEFIT ADMINISTRATION FOR THE NON-REPRESENTED EMPLOYEES**

**Policy 302**

**Effective Date: 05-16-2000**

**Revision Date: 01-15-02, 5-17-05, 6-20-2006  
3-11-08**

This policy constitutes the entire benefit package for employees covered under the Non-Represented Employee Benefit Plan.

**ELIGIBILITY FOR BENEFITS**

Regular Full-Time Employees

An employee who is scheduled to work the full hourly work day and work week in a permanent position. This employee is eligible to receive benefits as outlined in this policy at a one hundred percent (100%) rate.

Regular Part-Time Employees

An employee who is scheduled to work 1,020 hours annually, or more, in a permanent position, and who is not a regular full-time employee. This employee is entitled to receive fringe benefits granted by this policy on a prorated basis.

Limited Part-Time Employees

An employee who is scheduled to work less than 1,020 annual hours in a permanent position. This employee is not entitled to any fringe benefits granted by this Agreement except participation in the Wisconsin Retirement Fund if they work a minimum of 600 annually scheduled hours.

Limited Positions

These employees are not entitled to any fringe benefits. If a limited position becomes a regular part time/full time position, the employee will accrue benefits under the classification.

**PAYROLL DIRECT DEPOSIT**

All employees covered under this policy must receive their payroll checks in the form of a direct deposit of funds to their bank account. These employees shall complete all necessary requirements of the Department of Administration and their financial institution prior to receiving their first payroll/direct deposit.

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**BASIS OF BENEFIT ACCRUAL AND USAGE**

For purposes of the following benefits as they pertain to regular part time employees: Sick Leave and Vacation, the accrual of benefits shall be according to the amount of hours paid an employee per pay period, excluding overtime and shift differential pay except for employees regularly employed on a shift which requires shift differential pay. Employees working less than fulltime shall accrue benefits equivalent to the percentage of hours paid.

An employee who works less than 1,020 hours annually is not entitled to any fringe benefits granted by this Agreement except participation in the Wisconsin Retirement Fund if they work a minimum of 600 annually scheduled hours.

Employees entitled to benefits for Vacation, Funeral Leave and Holidays shall receive pay prorated based on the average amount of time paid in the six months previous to March 31 and September 30. Once established on these dates, the amount of hours paid will remain the same for the future six-month period when it will be re-evaluated. To utilize Funeral Leave benefits, the employee must be scheduled to work.

**SICK LEAVE**

Definition of Sick Leave

Sick leave shall be considered to be an excused absence from work with pay due to illness or injury that occurs outside of the employment of the County and not covered by the Worker's Compensation Act.

Consecutive sick leave claimed in excess of three days shall be counted towards an employee's annual Family and Medical Leave Benefit, retroactive to the first day.

Accrual Rate and Maximum Accrual

Employees shall accumulate sick leave as follows:

- A. All regular full-time employees shall earn sick leave at the rate of one (1) day for each month of employment.
- B. Unused sick leave shall carry over and be added to the next year's accumulation until a maximum of 960 hours of unused sick leave has accumulated.
- C. Sick leave for regular part-time employees and regular seasonal employees shall

be computed on a prorated basis.

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#### Sick Leave Payout on Retirement

Upon retirement, forced retirement due to disability or in the event of death, the employee or his/her estate shall receive one lump sum payment for one-half (1/2) of the remaining unused sick leave in the employee's account, not to exceed a total of 360 hours.

In lieu of the above lump sum payment, employees may elect to have up to 67% of their accumulated sick leave cash equivalent applied towards the payment of health insurance premiums if they choose to stay on the County's insurance plan.

Employees who have accrued the maximum allowable number of sick leave hours, and who have not used more than 20 hours in the previous twelve months are allowed an additional 19 hours bonus payout of accumulated sick leave cash equivalent applied towards the payment of health insurance premiums. Usage of sick leave in subsequent years in excess of 20 hours shall not result in the loss of bonuses previously earned. The employer shall provide employees with an annual statement of their sick leave account and payout options during the month of March.

In the event of the death of the employee before the cash payment equivalent is exhausted, the remaining portion shall be paid to the estate of the employee, or used to purchase continuing health insurance protection with the County, at the family's option.

#### Notification Requirements

In order to qualify for such sick leave, an employee must report that he/she is sick to their immediate supervisor not later than one half (1/2) hour before the earliest time for which he/she is to report to work. In the event an employee becomes sick during the working hours, he/she shall notify his/her supervisor before leaving work. Employees may use sick leave for minor children up to age eighteen (18). Employees may use sick leave for dependent handicapped children and for spouse's illness with a doctor's statement.

#### Proof of Illness

Each employee on sick leave is subject to a visit by a County representative. A doctor's statement of illness may be requested for the third consecutive day of illness and if requested, must be furnished before sick leave is paid.

#### Discipline for Sick Leave Abuse

An employee who abuses sick leave is subject to discipline by the Employer.

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#### Prior Notification of Extended Sick Leave Absence

Employees who have reason to anticipate the use of sick leave such as elective surgery, shall whenever possible, give at least two (2) weeks notice. Such notice shall give an estimated length of absence from duty.

#### **FUNERAL LEAVE**

##### Funeral Leave Benefit

In the event of a death of a member of the employee's immediate family, he/she shall receive three (3) days leave with pay at his/her regular rate of pay. Immediate family shall be defined as husband, wife, mother, father, step-parents, children, stepchildren, sister, brother, grandparents, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law and grandchildren. In the event of a death of an employee's aunt or uncle, he/she shall receive one (1) day leave with pay at their regular rate of pay.

##### Additional Leave of Absence

Additional time off may be applied for as a leave of absence.

##### Pallbearer Service

Employees will be allowed the necessary time off on the day of the funeral, with pay, to serve as a pallbearer. The employee shall notify the Department Head one (1) day prior to the funeral of his/her pending absence.

#### **JURY DUTY**

When an employee is required to serve on jury duty they will be given the time off without loss of pay and benefits, provided:

- A. The jury duty fees received, less the mileage reimbursement, are turned over to the employing department; and
- B. The employee shall report to work and/or return to work when not required to be present in court for jury duty with an appropriate time allowance for driving and clothes change.

The employer may request verification from the Clerk of Courts regarding the dismissal time of jurors.

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**FAMILY AND MEDICAL LEAVES OF ABSENCE**

This article shall only govern those leaves of absence which are medically related or which meet the statutory definitions of leaves under the state and federal Family and Medical Leave Acts.

**Request for Medical LOA**

Applications for a leave of absence for family or medical reasons shall be made to the employee's Department Head or in the case of Department Heads to the County Administrator. Approval for leaves as provided for under the Family and Medical Leave Acts shall be given by the Department Head or the County Administrator, in consultation with the Department of Employee Relations, for up to twelve (12) weeks per calendar year in accordance with Federal and/or State law. Employees shall, with the approval of the County Administrator, be granted a leave of absence without pay for a period of up to two (2) years for serious illness or injury after the employee has exhausted accrued sick leave and vacation benefits. No fringe benefits shall be earned during such leave of absence.

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Leaves of absence will not be unreasonably withheld.

**Notice of Intent/Reports to Employer**

Employees shall, as soon as possible, furnish the Employer with notice of their intent to use leave for family or medical purposes. For absences of three or more consecutive days, employees may be required to provide certification from their physician. Upon request of the Employer, they shall furnish like information every thirty (30) to forty-five (45) days. Employees may be required to obtain return to work permission from their physician.

Employees may elect to use accumulated sick leave or vacation benefits during leaves of absence for family or medical reasons.

Employees shall document FMLA requests utilizing forms obtained from the Employee Relations personnel, and coordinated through their Department Head or the County Administrator and the Employee Relations Director.

**LEAVES OF ABSENCE**

This article shall only govern those leaves of absence which are not medically related or which do not meet the statutory definitions of leaves under the state and federal Family and Medical Leave Acts.

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Request for LOA

Applications for a leave of absence for personal reasons shall be made to the employee's Department Head or in the case of Department Heads to the County Administrator. The Department Head or County Administrator may grant a leave of absence for thirty (30) days or less. All leaves of more than such time must be brought before the appropriate governing committee. Leaves of absence will not be unreasonably withheld.

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Pay and Benefits During LOA

All leaves of absence shall be without pay. No fringe benefits shall be earned during a leave of absence. No leave of absence shall be granted to seek other employment. Individuals on a leave of absence for five (5) days or less per anniversary year will not be prorated for sick leave, vacation or insurance.

Military LOA

Annual military leave with pay will be granted as follows: A differential between the employee's regular and military pay. Such military leave shall be for no more than thirty (30) days per year, based upon actual military orders. It shall be the duty of the employee on such leave to furnish the Department of Employee Relations satisfactory evidence showing the length of military leave and military pay during such leave. Seniority shall accrue throughout military leave.

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Payment of Health Insurance While on LOA

Employees shall make their own arrangements in advance for payment of health insurance for any full calendar month they are on leave of absence.

Educational Leave

Educational leave without pay up to thirty (30) days may, at the discretion of the Department Head (in the case of Department Heads, to the County Administrator), be granted for educational leaves of absence, off-the-job and on-the-job development activities and devices that are conducted as part of or associated with the County which increases the knowledge, skill and general competency of an employee. Longer leaves must have additional approval of the governing committee and the Personnel Committee. Expenses shall be reimbursed to the employee in accordance with the applicable Polk County resolutions or ordinances to the current budgeted limit per employee.

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## WORKER'S COMPENSATION BENEFITS

### Supplemental Worker's Compensation Pay

In the event an employee is injured on the job and as a result of such injury receives Worker's Compensation disability pay, such employee shall suffer no loss in wages for that period of time while disability paychecks are being received.

The County shall pay the employee's full gross salary ( before taxes and deductions) for the period of time the employee is receiving temporary partial or temporary total disability paychecks for a period of time not to exceed the equivalent of six (6) months total pay. In order to be able to receive this supplemental Worker's Compensation pay, the employee must turn over all Worker's Compensation payments for lost work time to the employer.

In calculating the supplemental worker's compensation pay provided for in this section, the employer shall not be required to make the employee whole for any reduction in worker's compensation benefits pursuant to Chapter 102.58, Wis. Statutes. This provision shall not adversely affect the accrual of fringe benefits except as otherwise provided for in this policy.

By way of example:

Employee's regular net pay- 100% of W/C regular contribution = employer's net contribution towards the employee's gross pay.

### Disputed Claims Procedure

In the event a claim is contested, full pay to the employee will be held up until an award is made by the Industrial Relations Commission, at which time the employee will be paid in one lump sum an amount equal to his/her full salary as spelled out in Section 1 above. In no event will the total amount paid an employee by both the disability paycheck and Employer's share be more than his/her full salary based on the normal work day and work week.

## WISCONSIN RETIREMENT

### County Payment of Employee Contribution

The County agrees to pay the Wisconsin Retirement Fund plan, employee and employer share.

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## HOLIDAYS

### Definition of Holidays

- A. All employees covered by the terms of this policy shall receive the following named holidays with pay at their regular rate of pay,: New Year's Day, Memorial Day, Fourth of July, Thanksgiving Day, Labor Day, Veteran's Day, Christmas Eve, Christmas Day, Good Friday. Employees of the Polk County Recycling Center shall receive the day after Thanksgiving in lieu of Veteran's Day.

Employees at the Polk County Sheriff's department covered by this policy shall receive the following named holidays with pay at their regular rate of pay: New Year's Day, Memorial Day, Forth of July, Thanksgiving Day, Labor Day, Veterans Day, Presidents Day, Christmas Day, and Easter Day.

- B. Non represented employees shall be allowed to voluntarily trade any fixed holiday for which they are required to work a full day, for a floating holiday, which must be used within 30 calendar days or be forfeited.
- C. Any and all benefit for floating holidays shall terminate on the beginning of the pay period following the revision date of this policy (5-22-05). Any eligible floating holidays will be converted to vacation hours up to the maximum allowable.

### Eligibility for Holiday Pay

In order to be eligible for the above listed paid holidays, the employee must be in pay status the work day preceding and first work day following the paid holiday. In pay status shall include employees on vacation, sick leave, Worker's Compensation, and any employee that may have been excused for compelling personal reasons the workday preceding and the first work day following the paid holiday. The Employer agrees that no employee will be laid off during the two-week period in which a holiday falls just to avoid holiday pay for that employee.

### Substitution for Holiday Falling on a Day Off

Should any of the above listed holidays fall on an employee's day off, the nearest scheduled workday will be considered to be the holiday.

### Premium Pay for Hours Worked on Holidays

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If an hourly employee (as defined by the FLSA), except as otherwise provided, is required to work on any named holidays for their respective departments, they shall be compensated, in addition to their regular holiday pay, at the rate of one and one-half (1 – 1/2) times the regular rate of pay.

**VACATIONS**

**Accrual Rate of Vacation Benefit**

After May 22, 2005, salaried and hourly employees in the Non-Represented Employee Pay Plan shall earn vacation as follows:

<b>Year</b>	<b>Accrual Rate</b>
1	10 days
2	11 days
3	12 days
4	13 days
5	14 days
6	15 days
7	16 days
8	17 days
9	18 days
10	19 days
11	20 days
12	21 days
13	22 days
14	23 days
15	24 days
16	25 days

**Payment of Vacation Benefit Upon Retirement/Resignation**

The County agrees to pay all accrued vacation benefits, including the current year's benefits, upon retirement.

The balance of accrued, but unused vacation will be paid upon resignation if two weeks notice of resignation is given. If two weeks notice is not given, the balance of vacation owed will be forfeited.

**Use of Accrued Vacation/Forfeiture for Non-Use**

Upon completion of the initial probationary period, employees will be allowed to take their earned vacations as approved by their immediate supervisor. Employees may not

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exceed 300 hours at the end of the anniversary year.

Scheduling and Prior Approval

All vacation requests must be in writing and must be approved by the employee's supervising authority.

**INSURANCE**

Employer/Employee Contribution

Fulltime employees choosing health insurance coverage, the employer agrees to contribute ninety percent (90%) of the cost of such coverage.

Regular Part-time employees entitled to health insurance benefits will receive full insurance benefits. Future premiums will be prorated based on the average amount of time paid in the six months previous to March 31 and September 30. Once established on these dates, Health Insurance premiums will remain the same for the future six-month period when it will be re-evaluated.

Enrollment Requirements

If the County receives the employees health insurance application within 30 days after the employee becomes eligible, coverage for the employee and their covered dependents shall start on the first day of the month following the waiting period. (See the Comprehensive Major Medical Health Care Plan for details.)

Group Life Insurance

The County shall pay the Employer's and the employee's share of the Wisconsin State Group Life Insurance program available for eligible employees.

Flexible Spending Accounts

A Section 125 Plan with a medical flexible spending account option shall be made available to employees. The employer shall pay all administrative costs associated with the plan.

Other Health Insurance Plans

In addition, the County may make other insurance plans available to employees for their participation on a voluntary basis. No action on the part of the county in this regard shall be construed as creating an obligation to provide such plans in any future years.

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MISCELLANEOUS PROVISIONS

Employment Physical and Psychological Examinations

If required by the County, as a condition of employment, an applicant for employment with the County must satisfactorily pass a complete physical and/or psychological examination before being accepted for employment. The County shall assume the cost of the physical examination and the prospective employee must use a doctor of the County's choice. The County shall furnish a list of doctors from which the applicant shall select one to conduct the examination.

When necessary and required by department policy for additional lab testing or chest x-rays to be done, the costs incurred by employees for the required tests shall be reimbursed. Prior to County reimbursement, the bill for said testing shall be submitted to the employee's health insurance carrier first and the County shall only be responsible for reimbursement for that portion of the testing costs not covered by insurance.

If an annual physical examination is a condition of employment, the County shall assume the cost of said annual physical examination. If any lab work is required by the Employer as part of said annual physical examination, the County shall pay the cost provided, however, that the employee must submit the charges for lab work to his/her health insurance carrier first, and the County will pay the portion not covered by insurance.

Safety Equipment

▼ Safety equipment mandated by the employer shall be provided to employees at no cost.

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Uniform Allowance

▼ Governing Committees may, with the approval of the Personnel Committee, provide for a uniform allowance for employees covered under this policy.

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Relocation Expense Allowance

▼ As part of the employee recruitment and selection process, the Employee Relations Director shall have the authority to negotiate with prospective employees regarding reimbursement of relocation expenses in consultation with the Department Head and County Administrator. The County Administrator must approve all relocation expense offers. The Departmental Budget that is charged with the payroll expense for the position being filled shall fund any relocation expense offer made by the Employee Relations Director. The Finance Committee must approve any offer that cannot be funded through the hiring department's approved budget. Any offer in excess of five thousand dollars (\$5,000) must be approved by the full County Board.

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Polk County Wisconsin

SEXUAL HARASSMENT

Policy 703

Effective Date: 03-15-94

Revision Date: 6-20-2006,  
3-11-08

Polk County is committed to providing a work environment that is free of sexual harassment. Actions, words, jokes, or comments based on an individual's sex are strictly prohibited and will not be tolerated. Sexual harassment (both overt and subtle) is a form of misconduct that is demeaning to another person and undermines the integrity of the employment relationship. Sexual harassment by any employee, elected official, or County Board member of Polk County is strictly prohibited. In addition, acts of sexual harassment by members of the public that create a hostile work environment for any employee, elected official, County Board member, or other member of the public are strictly prohibited.

Specifically, sexual harassment is defined as:

1) Threat of retaliation against for refusal, or promises of rewards to an employee in return for the granting of sexual acts or favors. Such threats or promises include but are not limited to such job related areas as termination, promotion, transfers, employee evaluation, or monetary or other valuable compensation.

2) Any physical, verbal, or nonverbal action of an employee, elected official, County Board member, or member of the public, or a physical attribute of the workplace that creates an intimidating, hostile, or offensive work environment for another employee, elected official, County Board member, or member of the public. This includes but is not limited to:

offensive language, jokes, gestures, or comments

sexually oriented material such as pictures, calendars, graffiti, or objects

Any employee, elected official, County Board member, or member of the public who wishes to report an incident of sexual harassment should promptly report the matter to the Employee Relations Director. If the Employee Relations Director is unavailable or the individual believes it would be inappropriate to contact the Employee Relations Director, the individual should immediately contact the Corporation Counsel or County Administrator. Individuals can raise concerns and make reports without fear of reprisal. All reports filed shall be kept strictly confidential.

Deleted: November 25, 2008

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Any supervisor or manager who becomes aware of possible sexual or other harassment shall promptly report the incident to the Employee Relations Director.

The Employee Relations Director, or if there is a potential conflict of interest the Corporation Counsel, County Administrator, or outside legal counsel, shall be responsible for conducting a complete and thorough investigation of all complaints filed under this policy. Investigations of complaints filed involving an elected official, the County Administrator, or a County Board Supervisor will immediately be turned over to outside legal counsel. All investigations will be confidential in nature, and shall protect the identity of both the party filing the complaint and of the person the complaint is filed against.

Upon completion of the investigation, the Employee Relations Director, County Administrator, or the Corporation Counsel shall issue a determination of facts and a recommendation of action to the Personnel Committee. Recommendations of action shall include all necessary steps to correct and alleviate the complaint, and may include disciplinary action against an employee, elected official, or County Board member who violates this policy.

The Personnel Committee or County Administrator shall take such action as is recommended and any further action that is required to address the issues raised in the complaint. Any disciplinary action taken by the County Administrator shall be appropriate to the severity of the violation of this policy, and may include termination. Disciplinary actions taken under this policy shall be subject to the procedural requirements of the County's progressive discipline policy. Elected officials and County Board members who violate this policy may be subject to a vote of censure or removal from office pursuant to Sec. 17.09 Wis. Stat., and the rules of order of the County Board.

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RESOLUTION \_\_\_\_-10

RESOLUTION TO AMEND POLK COUNTY BOARD OF SUPERVISORS' RULES OF ORDER ADOPTED ON APRIL 20, 2010

THE HONORABLE SUPERVISORS OF THE POLK COUNTY BOARD:

WHEREAS, it is appropriate to amend certain provisions of the Rules of Order to comply with Wisconsin Statutes that govern the county administrator form of government and to give appropriate recognition to the various statutory responsibilities of the County Administrator; and

NOW, THEREFORE, BE IT RESOLVED that the Polk County Board of Supervisors amends Articles 3., paragraph 1. a., b. and d., and paragraph 2; Article 6, paragraph 2; and Article 8, paragraph 4, of the Polk County Board of Supervisors' Rules of Order adopted on April 20, 2010, as attached hereto and incorporated herein (Deletions shown by ~~strike~~ out; additions by underscore.)

BE IT FURTHER RESOLVED that the remaining provisions of the Rules of Order, as adopted on April 20, 2010, shall remain in effect and unchanged by this resolution.

Funding Amount: N/A Funding Source: N/A  
Date Finance Committee Recommendation: Not Applicable  
Effective Date: Upon Passage  
Approved as to Form: Jeffrey B. Fuge  
Jeffrey B. Fuge, Corporation Counsel

Date Submitted to the Polk County Board: September 21, 2010

Sponsored and Submitted By:

William Johnson  
Dean Johnson  
Marvin Casper

Ken Sample

At its regular business meeting on September 21, 2010, the Polk County Board of Supervisors adopted the above-entitled resolution, Resolution \_\_\_\_-10; Resolution to Amend Polk County Board of Supervisors' Rules of Order, adopted April 20, 2010, was by a two-thirds majority vote of \_\_\_\_\_ in favor and \_\_\_\_\_, against.

\_\_\_\_\_  
William Johnson, IV, County Board Chairperson

Attest: \_\_\_\_\_  
Carole Wondra, Polk County Clerk



Polk County Board of Supervisors  
Rules of Order

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**ARTICLE 1. PURPOSE**

The purpose of this document is to provide a means by which the Polk County Board of Supervisors will conduct meetings, the selection, structure and composition of county board committees and county administrative boards, duties and responsibilities of the County Board Chairperson, the recognition of the existence and role of the Administrative Committee and the recognition and application of the Polk County Code of Ethics to members of the Polk County Board of Supervisors and citizens appointed to serve on the committees and administrative boards of the Polk County Board of Supervisors.

**ARTICLE 2. MEETINGS**

1. With exception of the organizational meeting held in April of even number years, all Polk County Board of Supervisor's regular business meetings from May through September will be held from 6:30 pm. to 11:00 pm. and the regular business meetings from October through April will be held from 6:00 p.m. to 11:00 p.m. Regular business meetings will be held on the third Tuesday of each month except the annual meeting in November will conform to Wis. State § 59.11(1), or unless a change in the date and time is properly noticed. The organizational meeting held in April of even number years will be held on the third Tuesday of April at a time noticed by the Chairperson.
2. Meetings may be canceled or rescheduled by the County Board Chairperson or upon submittal of a written petition per §. 59.11(2)(a) to the County Clerk by a majority of the County Board. The County Board can only change a regularly scheduled County Board meeting by providing a two (2) week notice.
3. All County Board Supervisors shall be present unless excused for good cause by the County Board Chairperson.
4. A majority of the Supervisors entitled to a seat on the Board shall constitute a quorum.
5. The Chairperson shall take the chair at the hour to which the Board was adjourned and call the members to order. Roll call shall be taken to determine if a quorum is present. The County Board Chairperson shall preserve order and decorum and shall decide questions of order subject to an appeal of the Board.
6. Public comment at County Board of Supervisor's meetings shall be allowed after the speaker has been formally recognized by the County Board Chairperson. Each person shall go to the podium and identify

themselves by name and municipality of residency before addressing the Board. Each person has (3) three minutes to make their presentation, which includes distribution of handouts. The County Board Chairperson shall have the responsibility to conduct the public comment period in an orderly and respectful manner.

7. No committee shall absent themselves from a County Board meeting by reason of their appointment without leave.
8. As reasonably as possible, all seating of the County Board members shall be in such an arrangement so all members face the Chairperson and each other. The supervisors are to be seated by District Number order.

### **ARTICLE 3. ORDINANCES AND RESOLUTIONS**

1. The County Board shall only consider resolutions and ordinances that meet all of the following:
  - a. A resolution or ordinance must be endorsed by either one or more sponsoring Board members or the Chairperson of the Committee that recommends consideration by the full County Board or by the County Administrator pursuant to Wisconsin Statutes Section 59.18(5). During a meeting, the County Board Chairperson may refer to an appropriate Committee any resolution or ordinance that has not received a recommendation from a Committee prior to consideration and action by the Board.
  - b. The County Administrator and Corporation Counsel shall review all resolutions and ordinances prior to introduction before the County Board and shall initial on each resolution or ordinance one of the following: Recommended, Not Recommended, or Reviewed Only.
  - c. Any resolution or ordinance that requires the appropriation of funds must state an amount and source of funding and also must receive the review and recommendation of the Finance Committee before the full County Board may consider the same.
  - d. Resolutions and ordinances must be submitted in a timely manner to the County Clerk. The County Board Chairperson will insert into the agenda for the regular monthly County Board meeting only those resolutions and ordinances that the County Clerk has received twelve (12) or more calendar days before the said meeting. Proposed ordinances and amendments to existing ordinances will receive consideration and approval by the County Board of Supervisors only after the same has been discussed at a public hearing. Unless otherwise provided by statute, the notice

for public hearing on a proposed ordinance or proposed amendment to an existing ordinance shall be published as a Class 1 notice not less than ten (10) calendar days prior to the meeting at which the public hearing is held.

- e. Resolutions and ordinances must be approved as to form by the Corporation Counsel. The Corporation Counsel will consider the form of a resolution or ordinance only after it has been properly endorsed, and will not approve any resolution or ordinance that is unlawful.
2. The County Board Chairperson shall prepare the agenda with the assistance of the County Clerk and the County Administrator. The County Clerk shall circulate to all Board members a copy of the agenda and all ordinances and resolutions, and related supporting documentation, noticed in the agenda at least ten (10) calendar days before the regular monthly County Board meeting.
3. The County Clerk shall timely publish the agenda in the legal publication of Polk County.
4. Unless the County Board suspends these rules of order, the County Board shall only consider matters contained on the agenda so circulated and timely published.

#### ARTICLE 4. DEBATE

1. When a motion is made, it shall be stated by the Chairperson or read by the County Clerk prior to debate.
2. If any member requires it, all motions, except to adjourn, postpone or refer, shall be reduced to writing.
3. Any motion may be withdrawn by maker and second before discussion or amendment.
4. When any member is about to speak in debate or deliver any matter to the Board, he or she shall raise their hand and respectfully address the Chairperson and shall confine remarks to the question.
5. When two or more members wish to speak at once, the Chairperson shall name the person who is to speak first.
6. When a question is under debate, no motion that does not pertain to the question shall be received unless to adjourn.
7. The Chairperson has the option to call the question or continue debate.

8. A motion to adjourn shall always be in order, except when the Board is voting. A motion to adjourn or a call for the previous question shall be decided without debate.
9. No member shall speak no more than twice and not longer than five (5) minutes each upon the same question except by permission of the Chairperson. No member shall be allowed to speak upon the same question more than once until all members have had an opportunity to speak on said question.
10. When a member is called to order, he or she shall not speak except in explanation until the Chairperson determines whether he or she is in order.
11. The Chairperson, subject to an appeal to the Board, shall decide every question of order.
12. The Chairperson may call the Vice Chairperson or second Vice Chairperson to the chair and may debate any questions before the Board. Substitutions of the Chair shall not extend beyond adjournment. He or she shall vote on a call.

**ARTICLE 5. VOTING**

1. All questions shall be put in proper form. Those who are in favor say Aye; those of a contrary opinion say same sign.
2. The Chairperson or any member may call for a roll call vote on any question, which shall be recorded by the clerk.
3. All roll call votes of the County Board shall proceed on a rotating basis.
4. The Chairperson or any member may call for a ballot vote on any question, which shall be recorded by the clerk.
5. Prior to discussion, a Supervisor may request of the chair to be excused from voting for a valid cause, Supervisors who do not vote without approved abstentions shall have their vote counted in the negative.

**ARTICLE 6. ELECTIONS, APPOINTMENTS, BOARDS,  
COMMITTEES**

1. The election of the County Board Chairperson, and Vice Chairpersons shall take place after taking the oath of office by members of the County Board of Supervisors. A County Board Chairperson, First

Vice Chairperson, and Second Vice Chairperson shall be elected to serve a two (2) year term. If no nominee receives a majority on the first ballot, the second ballot will include the three (3) nominees receiving the most votes. If no nominee receives a majority on the second ballot, the third ballot will include the two nominees with the most votes. Voting will be by secret ballot.

2. The appointment and election of new committee members shall occur at the first meeting of the County Board following election of County Board members. The County Board Chairperson and the two Vice Chairpersons, with approval of the County Board, shall make the appointment of County Board members and ~~citizen members~~ to various committees as outlined below. Election of committee members shall follow appointments. Pursuant to Wisconsin Statutes section 59.18(2)(c), the County Administrator shall appoint citizen members to the various committees, subject to confirmation by the County Board. The Board encourages the Board Chair not to appoint the same person to both the Finance and Personnel committees.
3. The respective elected and appointed members of boards and committees shall be as follows:

<b>Standing Committees And Boards</b>	<b>Appointed</b>	<b>Elected</b>	<b>Other</b>
Highway	None	5 per s.s.83.015	
Finance	1	3	County Board Chairperson
Personnel	1	3	1 <sup>st</sup> Vice Chairperson
Golden Age Manor Governing Committee	1	2	2 Citizen Members
UWEX, Land & Water Resources, Lime Quarry	2	2	FSA Chairperson or Designee per s.s.92.06
Property, Forestry, Recreation,	2	3	

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Solid Waste, Recycling Public Protection	2	3	
Board of Health,	2	2	Citizens per ss. 251.03
Aging Council			Citizens per s.s.46.82(4)
Human Services Board	3	2	4 Citizens per s.s. 46.23(4)
Land Information Committee	3	2	

4. As reasonably possible, each Board member shall serve on two (2) committees or boards.
5. Each committee is to elect a Chairperson, Vice-Chairperson and Secretary. The chair of each board or committee shall be a member of the County Board unless otherwise provided for by statutes. No member shall be elected chair of more than one standing committee or board. The County Board Chairperson may be an ex-officio member with voting privileges of any committee or board when a quorum of the regular members is not present for a meeting.
6. All committees and boards shall fix regular meeting dates. Complete and detailed minutes shall be recorded of all committee and board meetings. Minutes of meetings are to be sent to all County Board members by the County Clerk in a timely manner except for those members who indicate their preference to access minutes on line.
7. Meeting dates shall be assigned so as not to conflict with other committees' times and dates whenever possible. If there are no conflicts, more than one committee or board can meet on the same day.
8. When two committees or boards are to meet jointly, it is the responsibility of both chairpersons to establish a joint meeting date. The two chairpersons shall whenever possible schedule such a joint meeting to coincide with a regularly scheduled meeting of one of the committees involved.

9. The duties and responsibilities of the respective committees shall be those as determined through resolution adopted, and amended as appropriate, by simple majority of the County Board.
10. County Board approval is necessary to establish new departments or programs and to determine to which committee such oversight shall be assigned.

#### **ARTICLE 7. DUTIES OF THE CHAIRPERSON**

1. Consistent with Wisconsin Statute Sections 59.12(1) and 59.19 and pursuant to Polk County Resolution 43-05, the County Board Chairperson is designated as the Administrative Coordinator of Polk County. The Chairperson shall carry out those duties enumerated in §59.12(1) and those various duties placed upon the office by county ordinance, resolution or policy. In the capacity of Administrative Coordinator for Polk County, the County Board Chairperson shall be responsible for all administrative and management functions of Polk County that are not otherwise vested in the administrative boards, standing committees, commissions and elected officer. The designation of the Chairperson as Administrative Coordinator shall lapse upon installation of the County Administrator.
2. Vacancies on the County Board shall be filled by the County Board Chairperson and ratified by the County Board. Recommendations may be submitted from Town, Village or City Boards located within the supervising district. Any vacancy on the County Board shall be filled no later than thirty-one (31) days after the occurrence of any such vacancy.
3. In the absence of the Chairperson, the Vice Chairperson or Second Vice Chairperson shall perform the duties of the Chairperson.
4. The County Board Chairperson shall coordinate with Committee Chairpersons and department heads, as appropriate, for orienting new Board members prior to the first meeting of the County Board of Supervisors following election.
5. The County Board Chairperson shall have the power to fill committee vacancies until the next meeting of the County Board when the County Board will elect a member to fill the un-expired term. Any County Board member has the right to submit a name or names for election to the vacancy.
6. The County Board Chairperson has the authority to appoint short term and advisory committees to be in effect until the next meeting of the County Board.

7. The County Board Chairperson shall provide a monthly report to the County Board of Supervisors that will include a report on travel taken and meetings attended and travel and meetings planned.

#### **ARTICLE 8. ADMINISTRATIVE COMMITTEE**

1. There shall be an Administrative Committee of 5 members consisting of the County Board Chairperson, the 1<sup>st</sup> Vice Chairperson, the Second Vice Chairperson and 2 members elected from County Board.
2. The County Board Chairperson shall be the Chairperson of the Administrative Committee.
3. The Administrative Committee will meet as called for by the Chairperson.
4. The fundamental purpose of the Administrative Committee shall be advisory to special needs situations. When conflict exists between committees, and properly assembled under sub. 3, the Administrative Committee shall mediate and recommend solutions prior to the matter being referred to the full board. In addition, the Administrative Committee shall also approve the goals and objectives of the County Administrator and conduct his or her annual performance review which shall be forwarded with recommendations to the County Board for consideration and completion.
5. The Administrative Committee serves as the County's Ethics Board.
6. The Administrative Committee shall consider revisions to the Rules of Order and provide recommendations to the County Board.
7. The Administrative Committee shall have other duties and responsibilities as determined through resolution adopted, and amended as appropriate, by simple majority of the County Board.

#### **ARTICLE 9. COMPENSATION AND REIMBURSEMENT**

1. The County Board Chairperson and the First Vice Chairperson shall receive compensation as set by County Board Resolution. The County Board Chairperson shall receive the regular per diem and travel reimbursement for attendance of all county committee meetings of which he or she is a member and all meetings in which he or she is representing Polk County.
2. County Board members shall receive per diem, plus travel mileage, meals, and lodging expenses as established by policy through



resolution adopted, and amended as appropriate, by simple majority of the County Board.

3. All County Board vouchers shall be presented consistent with policy established by resolution adopted, and amended as appropriate, by simple majority of the County Board.
4. The County Board shall consider revisions to the compensation and reimbursement of members of the County Board of Supervisors at its annual meeting and there fix the compensation of board members to be next elected, by two-thirds vote, consistent with Wisconsin Statute Section 59.10(3)(f).

#### **ARTICLE 10. GENERAL**

1. County Board members shall conduct themselves in a respectful manner at all functions of Polk County interest.
2. County Supervisors are subject to the Polk County Code of Ethics, adopted pursuant to Wisconsin Statute Section 19.59.
3. In the event that any provision of these Rules of Order is in conflict with Federal, State or local law such provision shall be null and void without effecting the validity of the remaining provisions of these Rules of Order.
4. All past rules in conflict with these Rules of Order are hereby rescinded.
5. In all questions relating to parliamentary procedure on the County Board, the latest edition of *Robert's Rules of Order* shall be the final authority.
6. County Board Rules of Order shall be determined by a majority vote at the organizational meeting of a newly elected County Board. After that time amendments of these Rules of Order shall require a two-thirds (2/3) vote of the County Board of Supervisors present at a properly noticed meeting except as provided within.
7. These Rules of Order shall be printed and each Supervisor shall receive a copy. Each newly elected Supervisor shall receive a copy upon taking his or her seat on the County Board. It will be the duty of the County Board Chair to maintain and update the Rules of Order as called for by the County Board.
8. These Rules of Order shall be in force and effective after being accepted by the Polk County Board of Supervisors on April 20, 2010.

**POLK COUNTY BOARD OF SUPERVISORS**

Minutes from Tuesday, Sept. 21, 2010 Special & Regular Business Meeting  
Polk County Government Center – County Board Room  
Balsam Lake, WI 54810

Chairman Johnson called the special meeting of the Polk County Board of Supervisors to order at 3:30 PM.

County Clerk informed the chair that notice of the meeting agenda was properly posted in three public buildings, published in the county's legal paper and posted on the county website the week of Sept. 12, 2010.

Roll call was taken by the Clerk, with 20 members present. Supr. Stoneking was excused from the early meeting. Absent, were Supr. Nelson and Masters. Supr. Nelson joined the meeting at 3:35pm.

County Administrator, Dana Frey, presented the proposed operating and capital budget for 2011 to the county board.

4:35 pm Chair called for recess until 6:30 pm.

Back in Session, 6:30 pm.

Roll call was taken by the clerk, with all 23 members in attendance.  
Supervisor Herschel Brown led the prayer.  
Chairman led the Pledge of Allegiance.

Chairman Johnson requested consideration and/or changes to the published agenda. **Motion (Brown/Masters) to remove Resolution F from the agenda and refer it back to committee. Motion defeated** by roll call vote of 11 yes/12 no. There were no further matters to address the agenda.

Chairman Johnson requested consideration and any corrections to the published August 17, 2010 County Board minutes. No corrections were offered.

Public Comments were offered.  
Chairman's Report was given.  
Administrator's Report was given.  
Finance Director's report was given by, Interim Finance Director, Maggie Wickre.

The Honorable Judge Robert Rasmussen and Deanna Boettcher did a presentation on the OWI Prevention Committee: Victim Impact Panel.

Committee/Board Reports were given.  
Chair called for 15 minute recess.

**Motion (Jepsen/Schmidt) to approve the appointment of Supr. Warren Nelson to the City of Amery Joint Review Board for TIF District #7. Motion approved** by unanimous voice vote.

**Resolution 56-10 to Confirm the Appointment of Lime Quarry Manager. Motion (Jepsen/D.Johansen) to approve.** Administrator Frey addressed the resolution. **Motion to approve the appointment of David Peterson as Lime Quarry Manager, Resolution 56-10, carried** by unanimous voice vote. Resolution adopted.

**Resolution 57-10 County Nursing Homes and the 2011-2013 State Biennial Budget. Motion (Christensen/Stoneking) to approve.** Supr. Kienholz addressed the resolution. **Motion to approve Resolution 57-10, carried** by voice vote. Resolution adopted.

**Resolution 58-10 Resolution to Hold a Public Hearing Concerning the Adoption of the Proposed Polk County Smoke-Free Air Ordinance. Motion (Schmidt/Edgell) to approve.** Public Health Director, Gretchen Sampson addressed the resolution. **Motion to approve Resolution 58-10, carried by voice vote.** Resolution adopted.

**Resolution 59-10 Polk County Land Records Modernization Plan 2011– 2015. Motion (O'Connell/Brown) to approve.** Land Information Director, Sara McCurdy addressed the resolution. **Motion to approve Resolution 59-10, carried by unanimous voice vote.** Resolution adopted.

**Resolution 60-10 Creation of the Polk County Land Council. Motion (O'Connell/Brown) to approve.** Land Information Director, Sara McCurdy addressed the resolution. **Motion to approve Resolution 60-10 carried by unanimous voice vote.** Resolution adopted.

**Resolution 61-10 Amendment to the Polk County Private Sewage System Ordinance. Motion (Moriak/Kienholz) to approve.** Land Information Director, Sara McCurdy and Zoning Administrator, Gary Spanel addressed the resolution. **Motion (Stoneking/Masters) to refer Resolution 61-10 back to committee. Motion to refer Resolution 61-10 to committee, carried by voice vote.**

**Resolution 62-10 Resolution to Increase the Fee for the Expenses of Taking Tax Deed by Polk County. Motion (Sample/Masters) to approve.** Polk County Treasurer, Amanda Nissen addressed the resolution. **Motion to approve Resolution 62-10 carried by unanimous voice vote.** Resolution adopted.

**Resolution 63-10 Resolution to Authorize and Adopt a Contract for Medical Examiner Services for 2011 with Anoka County, Minnesota. Motion (Masters/O'Connell) to approve.** Corporation Counsel, Jeff Fuge addressed the resolution. **Motion (Edgell/Sample) to amend Resolution 63-10, Under, RECITALS: THEREFORE, IT IS MUTUALLY AGREED, paragraph 3.2, ending the sentence after the word autopsy and striking the remaining portion of the sentence. Motion to approve the amendment to Resolution 63-10, carried by unanimous voice vote. Motion to approve Resolution 63-10, as amended, carried by unanimous voice vote.** Resolution adopted.

**Resolution 64-10 Resolution to Amend Certain Polk County Personnel Policies: Policy No.202, Personnel Records; Policy No.302, Benefit Administration for the Non-Represented Employees; and Policy No.703, Sexual Harassment. Motion (Arcand/Schmidt) to approve.** Administrator Frey addressed the resolution. Motion by Voelker to refer Resolution 64-10 back to committee, failed to receive a second. **Motion to approve Resolution 64-10 carried by voice vote.** Resolution adopted.

**Resolution 65-10 Resolution to Amend Polk County Board of Supervisors' Rules of Order Adopted on April 20, 2010. Motion (Brown/Edgell) to approve.** Administrator Frey addressed the resolution. **Motion (Arcand/Edgell) to amend Resolution 65-10 under ARTICLE 7, DUTIES OF THE CHAIRPERSON, paragraph 1. to read: The Chairperson shall carry out those duties enumerated in Wisconsin Statutes 59.12(1) and those various duties placed upon the office by county ordinance, resolution or policy. Motion to approve the amendment to Resolution 65-10 carried by unanimous voice vote. Motion to approve amended Resolution 65-10 carried by unanimous voice vote.** Resolution adopted.

Supervisors Reports were given.

**Motion (Masters/Edgell) to adjourn. Motion carried.** Meeting adjourned 10:08pm.