

To: Outagamie County Finance Committee

From: Lori O'Bright, Outagamie County Clerk

Date: April 30, 2018

Re: County Clerk Update –Election Management System Project, Special Elections–
Senate District 1, County Clerk staffing/transition, Election Equipment
Programming COOP Planning

Thank you for the opportunity to update you on the new Election Management System (Election Equipment) Project, Special Elections for Senate District 1, County Clerk staffing/transition, and Election Equipment Programming COOP (Continuity of Operations Plan) Planning. Following is background for each item on the agenda. At your meeting, I will be available to answer questions.

Election Equipment Project Update

- Elections Systems & Software was the selected vendor through procurement in 2017.
- After working with municipalities, the following equipment was purchased:
 - Optical Scanner Tabulators – DS200s – 72 (reads optical scan and ExpressVote ballots (PDFs every ballot image); tabulates results; after election is closed, the DS200 *with* modem, modems unofficial returns to county)
 - Modems for Optical Scanners – 69 – Village of Harrison, Calumet County, did not procure modems as their results are transmitted to Calumet County non-electronically as the county clerk does not have software to receive results via modem.
 - ADA Equipment – ExpressVotes – 76
 - Note: Two DS200s with modems and two ExpressVotes are county-owned and must be county maintained as required by the intergovernmental agreements with municipalities.
 - The county-owned equipment is utilized as: municipal backup on Election Day, during programming to test/verify programming, and during training.
 - Ancillary equipment/supplies - thumb drives, cases
 - Software – ElectionWare - \$37,645 (first year programming costs for a 4-election year cycle would normally be approximately \$100,000 – county costs).
 - Services – Project management, equipment operations training, software training, election on-site support (municipal/county cost share) – Election on-site support will not be procured for special elections May/June.
- Municipal/county agreements:
 - All municipalities within the county agreed to the following (except C. of New London (Dominion equipment and V. of Wrightstown – Brown County procured).
 - Intergovernmental Agreements (IGA) - The initial agreements provided for procurement specifications. Four municipalities assisted with procurement.
 - Once procurement was completed, an addendum was provided each municipality and signed, which detailed payments and cost responsibilities going forward with maintenance.

- The addendum provided a copy of the ES&S contract. Future upgrades were not addressed completely (note modem requirements for Verizon change below).
- The Village of Harrison (mostly in Calumet County) piggybacked on the county's procurement. The ES&S contract allowed Outagamie County to program for non-county wards including the City of Appleton, Winnebago & Calumet Counties, and Village of Harrison, Calumet County.
- **Modem Information/Election Night**
 - Cellular service - As the county must receive/report returns within two hours of receipt from municipalities, the county assumed responsible for modem costs (cellular service).
 - The Planning Dept. cannot support posting maps of election night results with the new system. Therefore, their labor is no longer utilized for election night reporting (pre-election labor savings).
 - Cellular service must be activated monthly (including back-up equipment – all 69 units), unless there are no election services required. Verizon has changed to not allow de-activation after 2019. County Clerk is de-activating modems in 2018 as able.
 - Verizon Change/Hardware Upgrade – Verizon has announced that they will no longer support 3G modems. Because of their service change, all 3G modems must be activated by June 30 or they will not be supported going forward.
 - ES&S reports they are working through federal certification for 4G modems. There will be upgrade modem requirements and the EMS software system will need to be upgraded (ES&S provided information 4/20/2018).

Senate District 1 - Special Election

After judicial order, Governor Walker certified a special election for the 1st Senate District, which covers a portion of Outagamie (and Calumet County – our office programs for all of Appleton & the Village of Harrison). Follows are the reporting units:

OUTAGAMIE COUNTY 1ST SENATE DISTRICT SPECIAL PARTISAN ELECTION - REPORTING UNITS									
Tuesday, May 15, 2018									
Total No. Reporting Units: 8			Reporting Units with No Voters: 1						
Units			Units			Units			
Rptg.			Rptg.			Rptg.			
TOWNS:			TOWNS (cont.):			CITIES:			
Buchanan -	W 1-10		VILLAGES:			Appleton -	W 59		
			Combined Locks -	W 1-6		Kaukauna -	W 12 & 13		
			Harrison -	W 1 & 2					
			Kimberly -	W 1-9					
			Little Chute -	W 3, 7, 9, 10 and 11					
			Wrightstown -	W 4					

Indicates No Voters in Reporting Unit

No Voters in:

- T. Buchanan, Ward 10
- Village of Harrison, Wards 1 & 2
- Village of Kimberly, Ward 9

Calumet County Wards:

City of Appleton 12-14, 26, 44-47
 Village of Harrison 3-18
 Appleton W 47=no voters

Following is the estimated costs for the 1st Senate District elections:

Estimated Costs for Special Elections-2018 - Senate District 1 - Outagamie County			
Item	Estimated Cost - Primary	Estimated Cost - General	Service Provided
Ballots & Programming (Wrightstown W-4)	\$50	\$50	Brown County Clerk
Ballots for County Assembly 3	1,329	2,661	Outagamie County
Election Notices (Primary - Type A, B&D) General type B&D)	1,250	1,000	Outagamie County Clerk
Election Night Coverage to Post Unofficial Returns	150	150	Outagamie County Clerk
Election Board of Canvass 1.5 days for each + mileage for BOC members	300	300	Outagamie County
County Clerk Labor – Canvass & notice preparation, ballot preparation & proofing, equipment programming	1,275	1,150	Outagamie County Clerk
Estimated Municipal Costs (All municipalities) - costs include absentee balloting, municipal labor, Type E notice	7,100	7,100	Municipalities
Total Estimated Costs	\$11,454	\$12,411	
Total Estimated Costs (County & Municipal) – primary & general special elections	\$23,865		
County Portion:	\$4,354	\$5,311	
Total Estimated Costs (County only)	\$9,665		

Municipalities are responsible for absentee processing, Type D & E notices, polling place staffing, and municipal canvassing costs.

Counties are responsible for programming equipment, ballots, the Type A & B notices, election night reporting, and canvassing costs.

The County Clerk’s office will realize some revenue from the special elections from Calumet County, City of Appleton, and Village of Harrison for their programming and ballot costs. Charges for programming will be assessed based upon actual labor utilized. Ballots costs will be fully reimbursed non-Outagamie County ballots.

Staffing Transitions – Purchase Services Temporary Help; Statutory Duties/Backlog

As previously reported to you, the County Clerk’s Office is going through a tremendous amount of change with implementation of the approximately \$660,000 Election Management System (EMS), bringing in-house election equipment programming (normally a vendor would be paid \$100,000+ for that programming in a four-election year cycle), and training two new staff (Deputy County Clerk-Programmer started mid-December and the PT Deputy Clerk Assistant started January). Training continues and is ongoing. PT staff training is particularly slow as the person is not exposed continually to their duties.

To assist with the transition, contract staff was utilized while staff training occurs. Contract staff assisted with duties that included distribution of election equipment to municipalities, distribution of election supply ordering (some of which still has not been completed as of the date of the drafting of this memo),

dog licensing receipting, and chipping away at the 2.5 year backlog for Book of Proceedings (last book printed was 2014-15).

Duties that remain include (but are not limited to) the following: transition municipal treasurers and other users to the new Transcendent Pet Licensing software program, printing the 2018-19 Public Officials Directory (brand new for all staff, except County Clerk), invoice municipalities (and Calumet/Winnebago Counties) for programming and supplies (larger supplies than ever experienced due to the new EMS), receipting ballot access documents for the fall Partisan elections, transition another new staff person while handling a special election the weeks of June 11-June 16, distribute to cemeteries care of veterans graves documents, continued training newer staff members, distribute remaining EMS supplies to municipalities, invoice for the special elections, begin 2019 budget preparation, address election security issues being addressed by the state and federal governments (possible audits), manage public transition for marriage licensing with the new building changes, handle open records requests (received first one for the PDFs of ballots; anticipate many more of those requests), and continue completion of the Book of Proceeding backlog.

Our office requested, from administration, continuation of the 10/hour week contract staff for another six weeks while another new staff member transitions, ensuring County Board functions are completed, special elections are handled, and other necessary duties are completed while the busy marriage license season really kicks off. Contract staffing is more cost-effective and provides opportunity for remaining staff to train without interruption.

The administration presented the possibility that another office could take over office duties (as available). However, that office is not constitutionally authorized to conduct county clerk duties and does not have sworn deputies. Since that was presented to this office, a request was made of Corporation Counsel to research statutory duties of this office according to the Wisconsin Statutes. Wis. Stat. 59.23 was revised in 2014 to centralize the duties and conform them in county clerk offices throughout the state. Our office will continue to conduct duties as required in Wis. Stat. 59.23 (appended) and other statutory requirements.

Election Equipment Programming – COOP Planning

The federal government has now designated elections as critical infrastructure. As part of that mandate, Wisconsin is receiving federal funds to update security. County and municipal governments will need to follow protocols and consider their individual requirements. Following is recent information regarding Wisconsin's actions.

The Wisconsin Elections Commission held a special meeting on April 18 to discuss plans to spend nearly \$7 million in federal 2018 Help America Vote Act (HAVA) Election Security Fund grants. The Commission plans to address immediate election security needs. In addition, the State is making plans to seek input from key election security partners such as Homeland Security, the Division of Enterprise Technology, local election officials, and the public on how the majority of the HAVA funds should be spent.

Staff recommendations to WEC included:

- ***Multi Factor Authentication (MFA) within Wisvote.*** All County Clerk staff (except contract) utilize Wisvote.
- ***Additional IT Contractors*** - WEC recommended hiring additional IT (two staff) contract development staff to implement elections security best practices and measures. One of the

recommended positions would focus on technical implementation of security measures, like MFA. The other position would focus on quality assurance and IT architecture

- ***Additional Server and Database Environments*** – WEC IT applications are hosted on servers housed at the state Division of Enterprise Technology (DET). Designating an application as critical means that DET architects the server structure for that application in a way that enhances back-ups and redundancies and ensures the function of the application can be restored and recovered quickly in the event of a cyber event or emergency. WEC staff is in the process of exploring the DET hosting tiers and identifying costs associated with moving WisVote and related applications to the highest tier available. After preliminary discussions, WEC staff does not believe moving elections applications to a higher tier will represent a one-time cost of more than \$100,000. However, moving to a higher tier will represent a higher monthly cost to the WEC for DET hosting services. WEC staff will report to the Commission any additional services purchased through DET to accomplish these upgrades.
- ***Additional Security Training for Clerks*** – WEC staff continues to develop in-house, interactive training tutorials for municipal clerks on election and cyber security topics. These trainings will be incorporated into the WisVote learning center and will be required for new users prior to gaining access to the system. However, additional training opportunities for municipal and county clerks is also available through federal partners. WEC staff would like to explore purchasing additional training from federal partners, such as the Center for Internet Security (MS-ISAC/DHS affiliate) that can then be made available to municipal and county clerks.
- ***Applications Management Software*** - WEC staff is exploring options to purchase database behavioral analysis and user activity logging software. These tools will help to establish baseline activity in the WisVote system and related applications and will automate processes to flag unusual activity. There are a number of software applications available either publicly or through the state enterprise that can accomplish these tasks. WEC staff is currently working with DET and other elections security partners to determine the best software solutions to meet agency needs.

County Level Continuity of Operations Plan–Election Security Issues

The County Clerk has addressed many security issues, but various items are in process of completion and the office will continue to implement federal/state recommendations.

- ***Backup Thumb Drives*** – Part of the EMS contingency funds were utilized to purchase a backup set of thumb drives. Brown County had procured an additional set, and after discussing with administration, Outagamie County purchased a back-up set for programming requirements. These thumb drives will be of particular assistance with special elections that are occurring and will assist with COOP.
- ***County Clerk Staff & Municipal Clerk Training*** – County Clerk staff will comply with all security measures being implemented by WEC. In addition, the County Clerk is becoming a train-the-trainer for municipal clerks/election inspectors (May 31 – Madison training). On June 6, Lori will be a facilitator at an Appleton regional training being planned by WEC.
- ***Equipment Programming Back-Up*** – In discussing redundancy of the county's system with the EMS vendor, ES&S recommended several items. Back-up of election programming is being stored off-site. An additional item recommended is that a laptop with programming software be stored off-site. The laptop could not be used for any other functions. As this suggestion is very recent, the county clerk will work through details of compliance with administration. Very little contingency remains from the EMS project, so additional funds might be necessary. Due to increased election security risks, the expenditure is warranted.

Committee Decisions Required

- Staffing - My primary concern is with staffing. With having a whole new staff as of mid-June (except the county clerk), it is imperative that we have sufficient staffing for ensuring elections compliance (including training municipalities in new security requirements and handling two additional elections), county board duties are completed, and to continue to adequately train current and new staff for marriage licensing and other necessary duties of the office.
- EMS Modem Upgrade – As our office will be working through Election budgeting for 2019 and modem upgrades will need to be installed next year, will the County support full or partial cost for that equipment? Without modems, the county will need to support labor changes to post up unofficial results on the web.
- EMS Backup – If sufficient funds are not available in the EMS contingency, could regular contingency provide a backup laptop for offsite available of election night/equipment programming software?

The above is very detailed memo and provides background to several issues being addressed in our office. Decisions can be completed at your next meeting with the May 1 meeting being informational. The municipalities will be looking to the county for their decision on budgeting, so you may want to consider not delaying further than your next meeting in two weeks. I look forward to our discussion.

Thank you.

Appendix

Wisconsin Statutes 59.23(2)

(2) Duties. The clerk **shall**:

- (a) *Board proceedings.* Act as clerk of the board at all of the board's regular, special, limited term, and standing committee meetings; under the direction of the county board chairperson or committee chairperson, create the agenda for board meetings; keep and record true minutes of all the proceedings of the board in a format chosen by the clerk, including all committee meetings, either personally or through the clerk's appointee; file in the clerk's office copies of agendas and minutes of board meetings and committee meetings; make regular entries of the board's resolutions and decisions upon all questions; record the vote of each supervisor on any question submitted to the board, if required by any member present; publish ordinances as provided in s. [59.14 \(1\)](#); and perform all duties prescribed by law or required by the board in connection with its meetings and transactions.
- (b) *Recording of proceedings.* Record at length every resolution adopted, order passed and ordinance enacted by the board.
- (c) *Orders for payment.* Sign all orders for the payment of money directed by the board to be issued, and keep a true and correct account of such orders, and of the name of the person to whom each order is issued; but he or she shall not sign or issue any county order except upon a recorded vote or resolution of the board authorizing the same; and shall not sign or issue any such order for the payment of the services of any clerk of court, district attorney or sheriff until the person claiming the order files an affidavit stating that he or she has paid into the county treasury all moneys due the county and personally collected or received in an official capacity; and shall not sign or issue any order for the payment of money for any purpose in excess of the funds appropriated for such purpose unless first authorized by a resolution adopted by the county board under s. [65.90 \(5\)](#).
- (cm) *Apportionment of taxes.* Apportion taxes and carry out other responsibilities as specified in s. [70.63 \(1\)](#).
- (d) *Accounts.* File and preserve in the clerk's office all accounts acted upon by the board, and endorse its action thereon, designating specifically upon every account the amount allowed, if any, and the particular items or charges for which allowed, and such as were disallowed, if any.
- (de) *Property.* To the extent authorized by the board, exercise the authority under s. [59.52 \(6\)](#).
- (dg) *Dogs.* Perform the responsibilities relating to dog licensing, which are assigned to the clerk under ch. [174](#), and the dog fund specified in ch. [174](#).
- (di) *Marriage licenses, domestic partnerships.* Administer the program for issuing marriage licenses as provided in ch. [765](#) and the program for forming and terminating domestic partnerships as provided in ch. [770](#).
- (e) *Reports of receipts and disbursements.* Record the reports of the treasurer of the receipts and disbursements of the county.
- (f) *Recording receipts and disbursements.* Keep a true and accurate account of all money which comes into the clerk's hands by virtue of the clerk's office, specifying the date of every receipt or payment, the person from or to whom the receipt or payment was received or paid, and the purpose of each particular receipt or disbursement, and keep the book at all times open to the inspection of the county board or any member of the board.
- (g) *Payments to treasurer.* Keep in the manner prescribed in par. (f) a separate account of all moneys paid the treasurer by the clerk.
- (h) *Books of account.* Keep all of the accounts of the county and all books of account in a manner that the board directs. Books of account shall be maintained on a calendar year basis, which shall be the fiscal year in every county.

- (i) *Chief election officer, election duties.* As the chief election officer of the county, perform all duties that are imposed on the clerk in relation to the preparation and distribution of ballots and the canvass and return of votes at general, judicial, and special elections.
- (L) *Duplicate receipts.* Make out and deliver to the treasurer duplicate receipts of all money received by the clerk as clerk, and countersign and file in the clerk's office the duplicate receipts delivered to the clerk by the treasurer of money received by the treasurer.
- (m) *Certified copies; oaths and bonds; signatures.*
 - 1. Make and deliver to any person, for a fee that is set by the board under s. [19.35 \(3\)](#), a certified copy or transcript of any book, record, account, file or paper in his or her office or any certificate which by law is declared to be evidence.
 - 2. Except as otherwise provided, receive and file the official oaths and bonds of all county officers and upon request shall certify under the clerk's signature and seal the official capacity and authority of any county officer so filing and charge the statutory fee. Upon the commencement of each term every clerk shall file the clerk's signature and the impression of the clerk's official seal in the office of the secretary of state.
- (n) *Taxes.* Perform all duties that are imposed on the clerk in relation to the assessment and collection of taxes.
- (nm) *Timber harvest notices.* Provide notice to a town chairperson regarding the harvesting of raw forest products, as described in s. [26.03 \(1m\) \(a\) 2](#).
- (o) *Report, receipts and disbursements to board.* Make a full report to the board, at the annual meeting or at any other regular meeting of the board when so stipulated by the board, in writing, verified by the clerk's oath, of all money received and disbursed by the clerk, and separately of all fees received by the clerk; and settle with the board the clerk's official accounts and produce to the board all books, accounts and vouchers relating to the same.
- (p) *Proceedings to historical society.* Forward to the historical society, postpaid, within 30 days after their publication a copy of the proceedings of the board, and of all printed reports made under authority of such board or by the authority of other county officers.
- (q) *County highway commissioner; notify of election.* Notify a county commissioner of highways of the commissioner's election within 10 days thereafter.
- (r) *County tax for road and bridge fund.* Notify the proper town officers of the levy and rate of any tax for the county road and bridge fund.
- (s) *List of local officials.* Annually, on the first Tuesday of June, transmit to the secretary of state a list showing the name, phone number, electronic mail address, and post-office address of local officials, including the chairperson, mayor, president, clerk, treasurer, council and board members, and assessor of each municipality, and of the elective or appointive officials of any other local governmental unit, as defined in s. [66.0135 \(1\) \(c\)](#), that is located wholly or partly within the county. Such lists shall be placed on file for the information of the public. The clerk, secretary, or other administrative officer of a local governmental unit, as defined in s. [66.0137 \(1\) \(ae\)](#), shall provide the county clerk the information he or she needs to complete the requirements of this paragraph.
- (t) *General.* Perform all other duties required of the clerk by law.

History: [1995 a. 201](#) ss. [261](#), [263](#), [264](#), [275](#); [1995 a. 225](#) ss. [147](#) to [150](#); [1997 a. 27](#); [1999 a. 9](#); [2013 a. 373](#).

Under s. 59.17 (8) [now s. 59.23 (2) (h)], the clerk keeps only those accounts designated by the board. *Harbick v. Marinette County*, [138 Wis. 2d 172](#), [405 N.W.2d 724](#) (Ct. App. 1987).

Except for their elected superior's power to appoint and discharge, chief deputies are subject to the Municipal Employment Relations Act, ss. 111.70 to 111.77, and are not excluded from a collective bargaining unit as a matter of law. *Oneida County v. WERC*, [2000 WI App 191](#), [238 Wis. 2d 763](#), [618 N.W.2d 891](#), [00-0466](#).

Statutory powers of the county clerk with respect to budgeting and record keeping cannot be transferred by the county board to a new position of finance officer. 63 Atty. Gen. 196.

A county board can only grant powers of indirect supervision to a finance director with respect to the accounting or bookkeeping duties of a county clerk. 65 Atty. Gen. 132.