

1 By Supervisor Rice
2

Journal,
File No. 10-

3 **AN ORDINANCE**

4 Amending Chapter 9, Code of Ethics, of the Milwaukee County Code of General
5 Ordinances as it relates to confidential information, privileged communications and
6 information acquired in meetings convened in closed session.

7 The County Board of Supervisors of the County of Milwaukee does ordain as
8 follows:

9 **SECTION 1.** Section 9.02 (14) of the General Ordinances of Milwaukee County is
10 amended as follows:

11 9.02 Definitions

12 (14) "Privileged information" means information obtained under government
13 authority which has not become a part of the body of public
14 information. including but not limited to information that has been
15 acquired in a meeting convened in closed session under the provisions
16 of Wis. Stats. 19.85, or information contained in a communication
17 labeled as privileged or confidential.

18 **SECTION 2.** Section 9.05 of the General Ordinances of Milwaukee County is
19 amended as follows:

20 9.05. Standards of conduct.

21 (1) No personal or economic interest in decisions and policies: The county
22 board hereby reaffirms that a county elected official, appointed official or
23 employee holds his/her position as a public trust, and any effort to realize
24 personal gain through official conduct is a violation of that trust. This
25 chapter shall not prevent any county elected official, appointed official or
26 employee from accepting other employment or from following any
27 pursuit which does not interfere with the full and faithful discharge of
28 his/her duties to the county. The county board further recognizes that in a
29 representative democracy, the representatives are drawn from society
30 and, therefore, cannot and should not be without all personal and
31 economic interest in the decisions and policies of government; that
32 citizens who serve as public officials or public employees retain their
33 rights as citizens to interests of a personal or economic nature; that
34 standards of ethical conduct for public employees and public elected and
35 appointed officials need to distinguish between those minor and
36 inconsequential conflicts which are unavoidable in a free society and
37 those conflicts which are substantial and material; and that county
38 elected officials, appointed officials or employees may need to engage in

39 employment and/or professional or business activities, other than official
40 duties, in order to support their families and to maintain a continuity of
41 professional or business activity or may need to maintain investments.
42 However, the code maintains that such activities or investments must not
43 conflict with the specific provisions of this chapter.

44 (2)(a) No financial gain or anything of substantial value: Except as otherwise
45 provided or approved by the county board, no county public official or
46 employee shall use his/her public position or office to obtain financial
47 gain or anything of substantial value for the private benefit of
48 himself/herself or his/her immediate family, or for an organization with
49 which he/she is associated. This paragraph does not prohibit a county
50 elected official from using the title or prestige of his/her office to obtain
51 campaign contributions that are permitted by and reported as required by
52 ch. 11, Wis. Stats.

53 (b) No person may offer anything of value: No person shall offer or give to
54 any public official or employee, directly or indirectly, and no public
55 official or employee shall solicit or accept from any person, directly or
56 indirectly, anything of value if it could reasonably be expected to
57 influence the public official's or employee's vote, official actions or
58 judgment, or could reasonably be considered as a reward for any official
59 action or inaction or omission by of the public official or employee. This
60 section does not prohibit a public official or an employee from engaging
61 in outside employment.

62 (c) No substantial interest or benefit: Except as otherwise provided in
63 paragraph (1.), no public official or employee shall:

64 1. Take any official action substantially affecting a matter in which the
65 public official, employee, a member of his/her immediate family, or
66 an organization with which the public official or employee is
67 associated has a substantial financial interest.

68 2. Use his/her office or position in a way that produces or assists in the
69 production of a substantial benefit, direct or indirect, for the public
70 official, employee, members of the public official's or employee's
71 immediate family either separately or together, or an organization
72 with which the public official or employee is associated.

73 (d) No disclosure of privileged information: No county public official or
74 employee shall use or disclose privileged information gained in the
75 course of, or by reason of, his/her position or activities which in any way
76 could result in financial gain for himself/herself or for any other person.

77 (e) No use of public position to influence or gain unlawful benefits,
78 advantages or privileges: No county public official or employee shall use
79 or attempt to use his/her public position to influence or gain unlawful
80 benefits, advantages, or privileges for himself/herself or others.

81 (f) No offer of gifts or anything of value: No county public official shall offer
82 or give anything of value to a member or employee of a county
83 department or entity, while that member or employee is associated with

84 the county department or entity, and no member or employee of a
85 department shall solicit or accept from any such person anything of value
86 from a county official or employee.

- 87 (g) Limits on contracts with county: No county public official or employee
88 and no business with which he/she or his/her spouse has a significant
89 fiduciary relationship or any organization with which he/she or his/her
90 spouse is associated shall enter into any contract with the county unless
91 that contract has been awarded through a process of public notice and
92 competitive bidding in conformity with applicable federal and state
93 statutes and county ordinances.
- 94 (h) Limits on lease of real estate with county: No county public official or
95 employee and no business in which that county public official or
96 employee has a ten (10) percent or greater interest shall enter into a lease
97 of real property with the county, except that the county board, upon a
98 publicly filed and considered request, shall waive this subsection when it
99 is in the best interests of the county.
- 100 (i) No limits on lawful payments: Paragraph (c) does not prohibit an elected
101 official from taking any action concerning lawful payment of salaries or
102 employee benefits or reimbursement of actual and necessary expenses, or
103 prohibit an elected official from taking official action with respect to any
104 proposal to modify a county ordinance.
- 105 (j) No solicitation of at-will employees: No elected county official shall
106 knowingly solicit a campaign contribution from any "at-will employee"
107 defined as an employee who is not under union or labor contract with
108 the county, who is hired for an indefinite term or who is under an
109 independent contract with the county or its subparts or who can be
110 discharged or terminated at any time for any nondiscriminatory reason.
- 111 (k) No campaign contributions to county officials with approval authority:
112 No person(s) with a personal financial interest in the approval or denial of
113 a contract or proposal being considered by a county department or with
114 an agency funded and regulated by a county department, shall make a
115 campaign contribution to any county elected official who has approval
116 authority over that contract or proposal during its consideration. Contract
117 or proposal consideration shall begin when a contract or proposal is
118 submitted directly to a county department or to an agency funded or
119 regulated by a county department until the contract or proposal has
120 reached final disposition, including adoption, county executive action,
121 proceedings on veto (if necessary) or departmental approval. This
122 provision does not apply to those items covered by section 9.14 unless
123 an acceptance by an elected official would conflict with this section. The
124 language in subsection 9.05(2)(k) shall be included in all Requests for
125 Proposals and bid documents.
- 126 | (l) ~~(l)~~—Limits on honorarium fees or expense reimbursements: No county
127 public official or employee shall accept or solicit any honorariums, fees
128 | or expense reimbursements except in accordance with section 9.14.

129 (m) Closed Session, Confidential Information and Privileged
130 Communications.

131
132 (1) No county public official or employee may disclose privileged
133 information, as defined in Section 9.02, to any individual who was not
134 authorized to receive such information as defined below, except as
135 provided in subsection (4) below.

136
137 (2) For purposes of this section, an individual is authorized to receive
138 privileged information if:

- 139 a. that individual is a public official as defined in Section 9.02 of this
140 chapter or a member of the governmental body as defined in Wis.
141 Stats. 19.89; or
142 b. that individual was authorized to attend a closed session by the
143 County Board Chairman or presiding Committee Chair; or
144 c. that individual was authorized to receive privileged information
145 presented in a closed session after the fact with the authorization
146 of the County Board Chairman or the presiding Committee Chair;
147 or
148 d. that individual is specified as an addressee or copied recipient of a
149 privileged communication, or otherwise authorized as a recipient
150 by the author of such communication.

151
152 (3) Violation of this section may be addressed by the use of such
153 remedies as are currently available by law, including but not limited to
154 the following actions:

- 155 a. Corporation Counsel is authorized to seek injunctive relief to
156 prevent disclosure or further disclosure of privileged information
157 obtained in closed session;
158 b. An investigation request or verified complaint may be filed as
159 provided in Section 9.09(4) of this chapter, and shall be processed
160 and disposed in accordance with the procedures contained herein.

161
162 (4) No action authorized under subsection (3) above may be taken
163 against a person, nor shall it be deemed a violation of this section, if:

- 164 a. The disclosure of privileged information is part of a confidential
165 inquiry or complaint to a district attorney concerning a perceived
166 violation of law, including the disclosure of facts to a district
167 attorney that are necessary to establish the illegality of an action
168 taken by a public official or the potential illegality of an action if
169 that action were to be taken by a public official;
170 b. The County Board adopts a resolution authorizing the release of
171 privileged information.

173 (5) Nothing in this section shall be construed to prohibit disclosures
174 permitted under Subchapters III and IV of Wis. Stats. 230
175 ("Whistleblower" laws).

176
177 (6) The Ethics Board shall include the requirements of closed session
178 confidentiality and notice of the requirements of this section as part of
179 Ethics training conducted under 9.08 (10).

180
181 (3) *Limits on contact:*

- 182 (a) *Limits on contact with former county associates:* No former county
183 public official or employee, for twelve (12) months following the date on
184 which he/she ceases to be a county public official or employee, shall, for
185 compensation, on behalf of any person other than a governmental entity,
186 make any formal or informal appearance before or try to settle or arrange
187 a matter by calling, writing, or conferring with, any county public official,
188 officer or employee of the department with which he/she was associated
189 as a county public official or employee.
- 190 (b) *Limits on contact with judicial or quasi-judicial proceedings:* No former
191 county public official or employee for twelve (12) months following the
192 date on which he/she ceases to be a county public official or employee,
193 shall for compensation on behalf of himself/herself or any person other
194 than a governmental entity, make any formal or informal appearance
195 before, or try to settle or arrange a matter by calling, writing, or
196 conferring with, any county public official, officer or employee of a
197 department in connection with any judicial or quasi-judicial proceeding,
198 application, contract, claim, or charge which was under the former public
199 official's or employee's responsibility as a county public official or
200 employee.
- 201 (c) *Limits on contacts with judicial or quasi-judicial proceedings where*
202 *personally participated:* No former county public official or employee
203 shall, whether for compensation or not, act on behalf of any party other
204 than the county in connection with any judicial or quasi-judicial
205 proceeding, application, contract, claim, or charge in which the former
206 public official or employee participated substantially as a public official
207 or employee.
- 208 (d) *Consideration of exemptions:* The ethics board shall accept and review
209 written requests by former appointed officials for an exemption from the
210 prohibitions of (3). Such exemption requests must be heard and
211 deliberated during a properly convened open session of an ethics board
212 meeting and must be included in a written ethics board opinion stating
213 the reason(s) that the former appointed official should be exempt from the
214 otherwise prohibited conduct.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: June 2, 2010

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: AN ORDINANCE

Amending Chapter 9, Code of Ethics, of the Milwaukee County Code of General Ordinances as it relates to confidential information, privileged communications and information acquired in meetings convened in closed session.

FISCAL EFFECT:

- | | |
|--|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input checked="" type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

This ordinance amendment addresses disclosure of confidential information obtained through privileged or confidential communications, and information acquired in a meeting convened in closed session. There is no direct fiscal impact, although Ethics Board staff will be required to add training on confidentiality to the Ethics Training materials.

Department/Prepared By County Board / Ceschin

Authorized Signature _____

Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

MILWAUKEE COUNTY BOARD OF SUPERVISORS
Committee on Judiciary, Safety and General Services

DATE: September 16, 2010

AGENDA ITEM No. 2

AMENDMENT NO. 1

Resolution File No.

Ordinance File No. 10-258

OFFERED BY SUPERVISOR(S): Sanfelippo

1. AMEND Section 1 of the proposed ordinance, beginning on line 11, as follows:

9.02 Definitions

- (14) "Privileged information" means information obtained under government authority which has not become a part of the body of public information, including but not limited to information that has been acquired in a meeting convened in closed session under the provisions of Wis. Stats. 19.85, or information contained in a communication distributed in a closed session meeting that is labeled as privileged or confidential.

2. AMEND Section 2 of the proposed ordinance, beginning on line 152, as follows:

9.05 Standards of Conduct

(3) Violation of this section may be addressed by the use of such remedies as are currently available by law, including but not limited to, the following actions:

- a. Corporation Counsel is authorized to seek injunctive relief to prevent disclosure or further disclosure of privileged information obtained in closed session;

An investigation request or verified complaint may be filed as provided in Section 9.09(4) of this chapter, and shall be processed and disposed in accordance with the procedures contained herein.

(4) No action authorized under subsection (3) above may be taken against a person, nor shall it be deemed a violation of this section, if:

- a. The disclosure of privileged information is part of a confidential inquiry or complaint to a district attorney

concerning a perceived violation of law, including the disclosure of facts to a district attorney that are necessary to establish the illegality of an action taken by a public official or the potential illegality of an action if that action were to be taken by a public official;

~~a.~~b. [The disclosure of privileged information is part of a legal proceeding or judicial action; or](#)

~~b.~~c. The County Board adopts a resolution authorizing the release of privileged information.

COUNTY OF MILWAUKEE
Interoffice Memorandum

DATE: November 29, 2010

TO: Supervisor Willie Johnson, Jr., Chairman, Committee on Judiciary, Safety and General Services

FROM: Rick Ceschin, County Board Research Analyst
Robert Andrews, Deputy Corporation Counsel

SUBJECT: Committee Referral of File No. 10-258 – Amending Chapter 9, Code of Ethics regarding closed session information

Issue

At the October 21, 2010 meeting of the Committee on Judiciary, Safety and General Services, as part of the discussion on the above referenced matter, the Committee directed County Board staff to consult with Corporation Counsel to draft recommendations as to how to amend Chapter 1 of the Milwaukee County Code of General Ordinances (MCGO) to address recording of closed session meetings.

Background

The issue of retaining minutes of closed session was addressed most recently in late 2004. At that time, Corporation Counsel advised that minutes should be kept when County Board members convene in closed session, provided that minutes were secured to prevent disclosure. Corporation Counsel did note that recording closed session may potentially hinder information sharing and committee participation due to potential disclosure of closed session activities to a larger audience. In January 2005 the County Board Chairman directed standing committees to begin recording closed session meetings on audio tape, and directed committee clerks to circulate sign-in sheets to track attendees of closed session meetings. In May 2005, the County Board Chairman revised the prior policy and discontinued closed session recordings, but continued the sign-in procedures. The sign-in procedure continues as the current policy on the matter. The three memos are attached for the committee's convenience.

Discussion

The taking of minutes in standing committee meetings is directed in Section 1.13 of the MCGO, indicating committee clerks 'shall enter in appropriate files kept for that purpose, a complete record of all such committee meetings, including the attendance thereat, appearances for and against pending matters, and minutes of the proceedings, including all motions made and by whom, how each member voted upon each matter considered, together with the final action by the committee thereon.'

However, the ordinances do not specifically address closed session minutes, recordings or note taking, and do not require nor prohibit such actions at the committee level. The ordinance requires only that "all meetings of a committee shall be conducted in accordance with the provisions of ss.

19.81 – 19.98, Wis. Stats.” That section of the statutes, known as Wisconsin’s Open Meetings Law, provides no direction regarding closed session activities.

In the December 2004 memo, Corporation Counsel highlights an opinion of the Attorney General that the decision to record closed session proceedings is within the authority of the governmental body, provided that the governmental body “should then arrange to keep the records thereof under security to prevent their improper disclosure.” On the basis of that opinion, Corporation Counsel concludes that the County Board and its committees are not prohibited from taking minutes or recording proceedings in closed session. As mentioned above, the County Board Chairman initially implemented closed session recordings, but later rescinded the practice citing “the loss of full participation on the part of County Board members.”

Recommendation

The Committee had requested direction as to how to amend County Ordinances to address recording of closed session proceedings. To that end, an amendment to Chapter 1.13 MCGO can be crafted at the direction of a legislative sponsor. However, given the discussion above and the detail of the attached discussion from the Office of Corporation Counsel, no action is recommended at this time.

Cc: County Board Chairman
Committee members
Corporation Counsel



OFFICE OF CORPORATION COUNSEL

Milwaukee County

WILLIAM J. DOMINA
Corporation Counsel

TIMOTHY R. SCHOEWE
MARY ANN GRIMES
ROBERT E. ANDREWS
Deputy Corporation
Counsel

LOUIS EDWARD ELDER
JOHN F. JORGENSEN
MARY ELLEN POULOS
MARK A. GRADY
JOHN E. SCHAPEKAHM
TIMOTHY R. KARASKIEWICZ
RICHARD H. BUSSLER, JR.
Principal Assistant
Corporation Counsel

TO: TERRENCE D. COOLEY, CHIEF OF STAFF, MILWAUKEE COUNTY
BOARD OF SUPERVISORS

FROM: WILLIAM J. DOMINA, CORPORATION COUNSEL

SUBJECT: **ADVISORY LEGAL MEMORANDUM;** RECORD OF
PROCEEDINGS CONDUCTED IN "CLOSED SESSION" UNDER
WISCONSIN OPEN MEETINGS LAW.

DATE: DECEMBER 2, 2004

The current practice of the Milwaukee County Board of Supervisors and its committees with respect to proceedings conducted in closed session under Wis. Stat. s. 19.85 is that the tape recorder is turned off and no minutes are made or kept to memorialize what occurs during closed session. This practice serves to guarantee the confidentiality of discussions held during closed session, which comports with the public policy justification for convening in closed session in the first place. Evidently, however, the absence of any record of closed session proceedings has led to occasional disputes over what has actually transpired during those sessions.

The Open Meetings Law, Wis. Stat. ss. 19.81-19.98, does not provide any specific direction with respect to recording proceedings conducted in closed session, nor does any reported appellate decision address that issue. However, the attorney general has provided some guidance.¹

The attorney general has opined that anyone, including a member of a governmental body, has the right to record the proceedings of a governmental body in open session, so long as the act of recording is not "physically disruptive" of the meeting, but that no such right exists with respect to proceedings in closed session, 66 Wis. Op. Att'y. Gen. 318 (1977). In that opinion, the attorney general indicates that a governmental body has the authority to decide whether to create and maintain a record of a closed meeting.

¹ In relying on an opinion of the attorney general, we are mindful of the attorney general's special statutory duty to provide advice as to the application of the Public Meetings Law, Wis. Stat. s. 19.98.

However, any record of a closed meeting must be retained in the custody of the governmental body and secured to prevent "improper disclosure". Such disclosure would, of course, defeat the purpose of the closed meeting:

It may be that a governmental body will believe it desirable to record its closed meetings, but it should then arrange to keep the records thereof under security to prevent their improper disclosure. The tape recording could be made by the Board itself, perhaps with its administrative secretary handling the task. The Board might permit one of its members to use his tape recorder to record a closed meeting, but the record produced should be in the Board's custody.

Id., p. 325.

On the basis of the attorney general's opinion, we believe that the Open Meetings Law neither requires nor forbids the County Board and its committees to keep minutes of those portions of meetings conducted in closed session. However, minutes should not be kept unless the County Board is capable of securing those minutes so as to prevent disclosure to anyone other than the County Board members and necessary staff who were permitted to remain in the closed session.

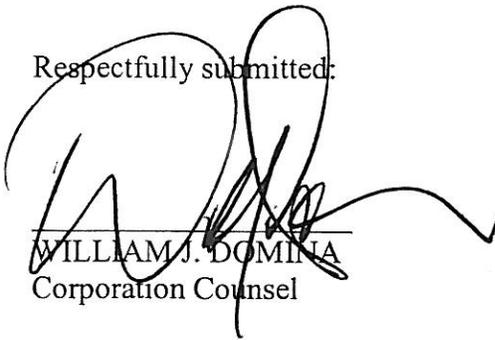
Clearly implicit in the attorney general's opinion is the conclusion that minutes and other records of meetings conducted in closed session under Wis. Stat. s. 19.85 are not subject to disclosure under the Public Records Law, Wis. Stat. ss. 19.31-19.38. That same conclusion follows logically from Wis. Stat. s. 19.35(1)(a), which provides that an authority can deny access to a record on the basis of the any of the reasons in Wis. Stat. s. 19.85 which permit a body to convene in closed session.

In view of the questions which have arisen among members of the County Board, our recommendation is that minutes be kept when County Board members convene in closed session. The decision to keep a record of closed sessions implicates two competing policy considerations. Keeping a record of closed sessions may detract from the relatively informality of those sessions. County Board members and others who participate in closed sessions may be less candid in expressing their views and sharing information if they are concerned that the substance of their statements may ultimately be disclosed to a larger audience. However, a record of closed sessions should resolve any concerns about the credibility and integrity of the Board's proceedings. In our view, this latter interest is the more compelling one, and it militates in favor of keeping minutes of closed sessions.

Finally, it should be noted that in making this recommendation we have not weighed the staffing needs and other logistical issues which will arise if the Board undertakes to keep minutes of closed sessions and preserve the confidentiality of those records.

We hope these observations are useful to you.

Respectfully submitted:



WILLIAM J. DOMINIA
Corporation Counsel

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

DATE : January 13, 2005
TO : County Board Supervisors
FROM : County Board Chairman Lee Holloway
SUBJECT : **Advisory Opinion Concerning Recording Closed Session Proceedings**

Attached is an advisory legal memorandum from the Corporation Counsel concerning the recording of proceedings of County Board committee meetings that are conducted in closed session. For reasons identified in the memorandum, the Corporation Counsel has recommended that minutes be kept when County Board members convene in closed session. It is Corporation Counsel's opinion that these minutes would not be subject to open records requests. These policies are designed to protect the integrity and confidentiality of the record of the closed session.

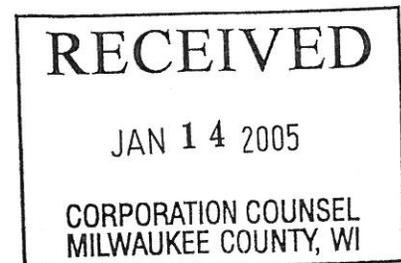
In keeping with this advisory legal memorandum and recommendation, I am requesting that all County Board committees use the following procedure when convening into closed session:

1. Record each closed session in its entirety with a separate audio tape (or tapes) designated for the closed session. (This will meet the recommendation for keeping "minutes" of the closed session.)
2. At the conclusion of the closed session, secure the audio tape in a sealed envelope and place in a secured, locked file in the area of the Committee Clerks' offices.
3. If a member of a committee that went into closed session, requests to review the audio tape from the session, they will be provided access to a designated County Board room to review the tape on a tape player. They will not be able to make a copy of the tape or remove the tape from the room.
4. No one other than a member of the committee that went into closed session, the Committee Clerk or Research Analyst for the Committee, or the Chief of Staff, will be provided access to the tape of the closed session.
5. Committee Clerks should circulate and keep a sign in sheet for each closed session, to be signed by all persons included in the closed session (including any individuals who come into the closed session after it has begun). This sign-in sheet(s) also will be kept sealed and would not be subject to any open records requests.

Lee Holloway
Chairman, County Board of Supervisors

Attachment

cc: All Committee Clerks
All Research Analysts
Shirley Szklarski, Administrative Secretary-Support Services
William Domina, Corporation Counsel
Terrence Cooley, Chief of Staff



COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION



DATE : May 18, 2005
TO : County Board Supervisors
FROM : County Board Chairman Lee Holloway
SUBJECT : **Closed Sessions of County Board Committees - Revised Policy**

On January 13, 2005, I sent you a communication attaching a December 2, 2004 advisory legal memorandum from the Corporation Counsel concerning the recording of proceedings of County Board Committee meetings conducted in closed session. Based on that memorandum, in which the Corporation Counsel recommended minutes be kept of closed session meetings, I requested all Committee Chairs to use a procedure for closed sessions that included tape recording each closed session in its entirety and keeping the tapes in a secure locked location. According to the Corporation Counsel, such tape recordings would not be subject to open records laws because of the confidential nature of closed sessions.

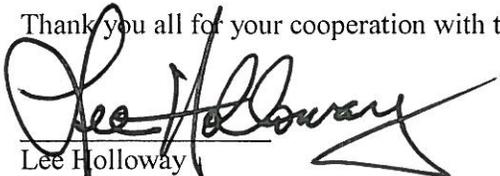
We have now tried this new procedure of recording closed session meetings over the past several months. We have had a number of closed session meetings of Committees during this time. It has been brought to my attention that, notwithstanding the confidential nature of the closed sessions, the tape recording of such sessions has inhibited some County Board members from fully participating as they otherwise might.

Clearly, it was my intent to keep a record, to the extent possible, of such meetings, following the advise of Corporation Counsel. It now appears, however, that any advantage in doing so is outweighed by the loss of full participation on the part of County Board members.

Consequently, I am hereby changing the policy initiated in my January 13, 2005 memorandum. From this point forward, closed sessions of County Board Committees will not be taped. Nor will Committee Clerks be required to take notes of conversations in closed sessions, as I think this does not really address the issue and, given that any such notes would be subjective, would only place the Committee Clerks in a difficult position.

The policy of County Board staff circulating and keeping a sign-in sheet for each closed session will continue to be in effect. These sign-in sheets should include any and all persons included in the closed session (including any individuals who come into the closed session after it has begun). Also, I would ask that, for any closed session item, only individuals who have a legitimate and appropriate contribution to make to the closed session proceedings be included in the closed session. The Committee Chair should make this determination.

Thank you all for your cooperation with this change in policy.


Lee Holloway
Chairman, County Board of Supervisors

cc: All Committee Clerks
All Research Analysts
Shirley Szklarski, Administrative Secretary-Support Services
✓ William Domina, Corporation Counsel
Terrence Cooley, Chief of Staff



OFFICE OF CORPORATION COUNSEL

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TIMOTHY R. KARASKIEWICZ
JEANEEN J. DEHRING
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: October 12, 2010

TO: Supervisor Willie Johnson, Jr., Chairman
Committee on Judiciary, Safety and General Services

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: File No. 10-258 – Amendment of Code 9, Code of Ethics as it relates to privileged information.

At the meeting of your committee on September 16, 2010 the above subject file was considered. It proposes that the Code of Ethics be amended to make it a violation of the Code for the unauthorized release of privileged information. The Committee requested that Corporation Counsel provide a report back on six matters. These items will be addressed in the order presented on the referral.

The first request is listed as “Disclosure of confidential information being considered as classified information”. In our view the terms “privileged information”, “confidential information” and “classified information” are interchangeable as each can be used to assist in defining the others. Information that is privileged is protected by a legally recognized right against disclosure. In other words, such information is to remain confidential or classified. The term “privileged information” has been part of our Code of Ethics in one form or another for many years. The present Code already contains a section which prohibits the disclosure of privileged information. Section 9.05(2)(d) reads as follows:

“No county, public official or employee shall use or disclose privileged information gained in the course of, or by reason of, his/her position or activities which in any way could result in financial gain for himself/herself or for any other person.”

The proposal currently before this Committee makes it unnecessary for there to be a “financial gain” in order to have a violation of the Code. The amendment to the Code, if adopted, with the elimination of the financial gain element, would cover a wider range of situations.

The second question asked, “Who decides what is confidential?” The Milwaukee County Ethics Board is vested with the authority to determine whether information is “privileged”. If the Board found that the information at issue was privileged it would follow with a determination as to whether the release of the information violated the Code.

The next question inquired as to the legal impact on the operation of the Code if the proposed amendment is adopted. Any response at this point would be conjecture. However, in my more than 25 years of staffing the Ethics Board I cannot recall an investigation or a complaint that implicated the privileged information provision. As previously stated, the proposed change does broaden the areas that might give rise to allegations that privileged information was improperly released. It is my sense, however, that the adoption of the amendment would not result in a significant impact on the operation of the Ethics Board.

Identifying what is acceptable material for a closed session was also raised. Every meeting of a government body must be held in open session except as provided by Wis. Stat. §19.85. A closed session of a meeting may be held only for those specific purposes listed in that section. Because the legislative mandate weighs heavily in favor of meetings being open, the exceptions to that strong policy are to be narrowly construed.

The exceptions that would permit a closed session that are relevant to the county are: 1) preliminary discussions of personnel problems; 2) considerations about public employees; 3) bargaining; 4) personal information; and 5) litigation strategy. And, it must be stated that simply because an item may be discussed in closed session does not mean that it has to be. This area of the open meetings law is dynamic as appellate court decisions continue to create a more nuanced understanding of the proper application of the facts to the law when determining whether a meeting may be closed.

The fifth item requested that we address making notes in closed session of a meeting. Because there currently is no prohibition to creating hand-written notes in county meetings, I will assume that the request is directed at whether such note taking could be banned. Presently, there is no legal authority one-way or the other in the state of Wisconsin. There is a letter, however, from an assistant attorney general in 2006 to the legal counsel of a school board which discussed this. Although the author declined to take a position on the issue he did present comments of the various forces that are at odds on the subject:

“The powers of the body and the rights of its members must be considered in relation to each other. Individual members, in exercising their own participatory rights, have a duty to not interfere with the concomitant rights of other members or of the body of the whole and, accordingly, must generally obey the procedural rules of the body. Conversely, the body, in regulating its collective proceedings, should not interfere with the participatory rights of an individual member anymore than is necessary to protect the coordinate rights of other members in ability of the body to carry out its public functions...the ability of a member of a governmental body to effectively discharge his or her official duties may require the taking of personal notes in order to occasionally refresh the member’s memory, to assist in effectively

gathering information, or to record the member's own thoughts about matters needing further investigation. On the other hand, as discussed above, the governmental body also has a substantial and legitimate interest in restricting the creation of any tangible, lasting record that might threaten the confidentiality of a lawfully closed meeting." (Assistant AG letter to Mr. Thomas A. Maroney October 31, 2006)

It is my opinion that the County Board does possess the authority to limit or prohibit the creation of hand-written notes in a closed session. It was not that long ago when the Board directed that all closed sessions be tape-recorded. This came about in response to a number of instances in which attendees of the closed session voiced significantly different recollections of what was discussed in the closed session.

The final inquiry of this office is related to the last item. Support has been shown that closed sessions be tape-recorded and any documents along with the tape of the meeting be deposited with this office for the purpose of shielding these items from the public. It is my recollection that for a relatively short period of time the County Board did record the closed sessions of its committees. A review of the tapes was limited to those individuals who had a right to be present at the closed session. The potential vulnerability of those tapes being released to other individuals was demonstrated in the recently concluded major lawsuit involving the County's pension benefits. Opposing counsel pressed hard to obtain access to those recordings. This led to the County Board reversing its policy of making recordings of its closed sessions.

A 2008 Supreme Court decision has further clouded the matter. In the case of *Sands v. Whitnall School Dist.*, 312 Wis.2d 1 (2008), Sands, an employee of the Whitnall School District learned, following a closed session meeting of the school district board that she was fired. She proceeded to file a lawsuit against the school district. During discovery her attorney served interrogatories on the school district inquiring as to the events in closed session. Our supreme court ruled that Sands was entitled to this evidence. In this instance the laws governing the discovery of evidence in civil cases trumped the ability to go into closed session under the open meetings law. Clearly, this is the trend: more access by the public to what formally had been closed. Using the Sands cases as a prelude it is my opinion that our ability to avail ourselves of the protections provided by attorney-client privilege will be further restricted. If there is a record, whether it be hand-written notes or a tape-recording, there will be an effort to bring those matters out into the public eye. It is recommended that the Board proceed cautiously in taking any action that seeks to limit the access of the public to meetings as well as to informationally be disclosed.

/s/ ROBERT E. ANDREWS
REA/rf

cc: Linda Durham



OFFICE OF CORPORATION COUNSEL

Milwaukee County

TIMOTHY R. SCHOEWE
Acting Corporation Counsel

ROBERT E. ANDREWS
Deputy Corporation Counsel

JOHN F. JORGENSEN
MARK A. GRADY
JOHN E. SCHAPEKAHM
TIMOTHY R. KARASKIEWICZ
JEANEEN J. DEHRING
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: September 13, 2010

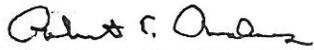
TO: Supervisor Willie Johnson, Jr., Chairman
Committee on Judiciary, Safety and General Services

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: File No. 10-258 – Ordinance by Supervisor Rice, amending Chapter 9, Code of Ethics of the Milwaukee County Code of General Ordinances, as it relates to confidential information, privileged communications and information acquired in meetings convened in closed session.

At your meeting on July 15, 2010, the committee voted to refer the above matter to the Office of Corporation Counsel for further review. The referral did not contain any specific questions or issues.

We have reviewed the proposed amended version of the initial proposal and it is our opinion that there is no legal impediment to the adoption of the resolution/ordinance.



REA/rf

cc: Linda Durham

1 A Resolution / Ordinance

2 Amending Chapter 1.13 of the Milwaukee County Code of General Ordinances, to
3 mandate full and complete audio recordings of any and all closed session meetings of the
4 Milwaukee County Board of Supervisors and its committees.

5 WHEREAS, according to The Wisconsin Public Records and Open Meetings
6 Handbook prepared by the State Bar, the provisions of Wisconsin's Open Meetings Law
7 require that meetings of governmental bodies be open to the public "to provide the public
8 with the fullest and most complete information possible regarding the affairs of
9 government"; and

10 WHEREAS, despite the expressed desire and intent to conduct the public business of
11 governmental bodies transparently in full, open session, Wisconsin State Statutes provides
12 clear exceptions in Chapter 19.85 that permit, though do not require, governmental bodies
13 to convene in closed session; and

14 WHEREAS, from time to time, the County Board of Supervisors has determined that
15 a meeting closed to the public, as allowed in the statutes, would be necessary to preserve
16 the interests of its taxpaying stakeholders in negotiations or litigation; and

17 WHEREAS, while the audio for all open meetings of the County Board is recorded
18 and written minutes and notes are properly and ably prepared and retained by the
19 committee clerks, no such record is preserved of closed session deliberations beyond an
20 attendance sheet; and

21 WHEREAS, in an April 2002 audit of the development and adoption of the 2001 –
22 2004 wage and benefit package, the Department of Audit recommended that "a method
23 should be developed for documenting, in summary form, information presented and
24 ensuing discussion" of material presented in closed session at a committee meeting; and

25 WHEREAS, as recently as 2005, the County Board had a process in place to make
26 audio recordings of closed session meetings, to securely retain such recordings, and to
27 limit access to such recording to Supervisors and a restricted list of staff, although that
28 policy was revised later in 2005 to discontinue that practice; and

29 WHEREAS, Corporation Counsel has previously advised the County Board that a
30 record of closed session would be helpful to "resolve any concerns about the credibility
31 and integrity of the Board's proceedings"; now, therefore,

32 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby
33 amends Chapter 1 of the Milwaukee County Code of General Ordinances by adopting the
34 following:

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AN ORDINANCE

The Milwaukee County Board of Supervisors ordains as follows:

SECTION 1.

Chapter 1.13 of the Milwaukee County Code of General Ordinances, up to and including _____, is hereby amended as follows:

1.13. Committee meetings.

- (a) *Regular committee meetings.*
 - (1) Except when otherwise determined by the respective chairperson, regular meetings of standing committees shall be held on the days hereinafter specified. If the meeting day falls on an election day for county board supervisor, the chairperson of the committee shall reschedule the meeting to a day other than the election day. The meeting shall be called to order promptly on the days and at the hour hereinafter specified, or such time as is designated in the notice of meeting by the chairperson of the committee (or in his/her absence, the ranking member thereof). Meeting days of standing committees shall be as follows:
 - (a) Transportation, public works and transit--third Wednesday before county board meeting--9:00 a.m.
 - (b) Judiciary, safety and general services--second Thursday before county board meeting--9:00 a.m.
 - (c) Economic and community development--second Monday before county board meeting--9:00 a.m.
 - (d) Parks, energy and environment--second Tuesday before county board meeting--9:00 a.m.
 - (e) Health and human needs--second Wednesday before county board meeting--9:00 a.m.
 - (f) Finance and audit--first Thursday before county board meeting--9:00 a.m.
 - (g) Personnel--first Friday before county board meeting--9:00 a.m.
 - (h) Intergovernmental relations--on call of chairperson.
 - (i) Committee of Whole--on call of chairperson.
 - (b) *Special committee meetings.* Special meetings of the standing committees may be called by the chairperson of the committee, and must be called upon written request to the chairperson by a majority of the members of such committee. At least twenty-four (24) hours prior notice of such special meeting shall be given by the committee clerk to each member of such committee, unless for good cause such notice is impossible, in which case shorter notice may be given, but not less than two (2) hours in advance of the meeting. An announcement by the chairperson of

75 the board while the board is in session, of the time, place and subject matter of a
76 special meeting of a committee to be held during a recess, shall be sufficient notice
77 to the members of the committee.
78

79 (c) *Committee procedure.* All meetings of a committee shall be conducted in
80 accordance with the provisions of ss. 19.81–19.98, Wis. Stats. The attendance of a
81 majority of the members thereof shall be requisite for the transaction of business of
82 a committee. Committee agenda are to be prepared so that members of the county
83 board and other interested parties will receive the agenda by United States or
84 interoffice mail at least the day before the scheduled committee meeting. All matters
85 to be placed on the agenda must be received prior to the agenda deadline.
86

87 (d) Meeting records

88 (1) Meetings in open session. The committee clerk shall enter in appropriate files
89 kept for that purpose, a complete record of all such committee meetings, including
90 the attendance thereat, appearances for and against pending matters, and minutes of
91 the proceedings, including all motions made and by whom, how each member
92 voted upon each matter considered, together with the final action by the committee
93 thereon. All actions taken by the committee shall be by roll call vote. No action
94 shall be taken on any proposed ordinance unless it be in written form before the
95 committee.

96 (2) Meetings in closed session. Any meeting of the County Board or its Committees
97 that convenes in closed session pursuant to Wis. Stats. 19.85 shall be fully recorded
98 by the committee clerk in an audio file that is distinctly and securely separate from
99 any open session recording. All attendees at the closed session meeting, as
100 authorized by the presiding chair, shall sign an attendance sheet indicating their
101 name, title and department or employer. The committee clerk shall not prepare
102 minutes or other notes of the closed session. Upon adjournment of the meeting at
103 which the closed session occurred, the committee clerk shall personally forward the
104 full audio recording and the attendance record to the County Corporation Counsel
105 who shall retain the recording and attendance record in a secure location
106 designated by the Corporation Counsel. The full audio recording shall only be
107 made available for review by the following personnel:

108 a. County Board Supervisors

109 b. County Board Chief of Staff

110 c. County Board Committee Clerks and Research Staff

111 d. Director of Audits

112 e. Meeting attendees, as indicated on the attendance record

113 f. Corporation Counsel or designee, provided the designee is a deputy or principal
114 assistant corporation counsel.

115 g. County Department or Division Directors, upon written authorization by the
116 County Board Chairman.

117 h. Outside parties, including outside counsel, as jointly authorized in writing by
118 the County Board Chairman and Corporation Counsel.

119 Copies or transcriptions of closed session audio recordings are not permitted except
120 where the recording may be of benefit to Milwaukee County's interest in a legal
121 proceeding as authorized by Corporation Counsel or where the record has been
122 subpoenaed.

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124
125 Except as herein provided and so far as applicable, the rules of procedure of the county
126 board shall apply to committee meetings.

127
128 After the conclusion of the committee meeting, the committee clerk shall prepare a
129 separate, written report of the action of the committee upon those matters considered by it
130 which require county board approval, for submission to the county board for action of that
131 body. Such report shall be made up in such manner that the county board may take action
132 upon it as a whole, or may set aside any portion of it for separate action. Any member of
133 any committee may make a minority report of said committee on any recommendation to
134 the board contained in the committee report. Such minority report must be presented when
135 the matter is considered at the meeting of the county board.

136
137 Except as provided in the preceding sentence, it is the duty of the committee to make a
138 report to the county board on matters referred to such committee with some definite
139 recommendation for disposition of such matters.

140
141 When members of a committee or joint committee present at any meeting thereof, are, by
142 recorded vote, evenly divided as to the disposition to be made of any subject matter
143 referred to and pending before such committee or joint committee, such subject matter
144 shall be returned to the next meeting of the county board without recommendation and the
145 committee or joint committee shall thereupon be deemed to be discharged from
146 consideration thereof.

147
148 **SECTION 4.**

149 The provisions of this Ordinance shall become effective upon passage and
150 publication.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: February 24, 2011

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution/ordinance amending Chapter 1.13 of the Milwaukee County Code of General Ordinances, to mandate full and complete audio recordings of any and all closed session meetings of the Milwaukee County Board of Supervisors and its committees.

FISCAL EFFECT:

- | | |
|--|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact
<input checked="" type="checkbox"/> Existing Staff Time Required
<input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget
<input type="checkbox"/> Decrease Operating Expenditures
<input type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input type="checkbox"/> Use of contingent funds |
|--|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated. ¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Adoption of this resolution/ordinance will not result in an increase in tax levy, although an expenditure of staff time will be required to reconfigure existing recording systems.

Department/Prepared By County Board / Ceschin

Authorized Signature _____

Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.



County of Milwaukee
Office of the Sheriff

David A. Clarke, Jr.
Sheriff

DATE: February 17, 2011

TO: Supervisor Lee Holloway, Chairman, County Board of Supervisors

FROM: Richard Schmidt, Inspector, Milwaukee County Office of the Sheriff

SUBJECT: Request to grant an amendment to Aramark Correctional Services, Inc. for Food Service provision at the County Correctional Facilities

REQUEST

The Sheriff of Milwaukee County requests the authority to grant an amendment to an existing contract with Aramark Correctional Services, Inc. for the provision of food service at the County Correctional Facilities for the period of January 1, 2010 until December 31, 2011.

BACKGROUND

The CCFS, formerly the HOC, began contracting for food services in 2003 with Aramark Correctional Services, Inc. with an initial five-year contract that was completed on December 31, 2008. In the fall of 2008, the CCFS issued an RFP for food service provision. Aramark was selected as the provider. In December of 2008, County Board File No. 08-428 was approved which granted the CCFS the authority to enter into a contract with Aramark Correctional Services, Inc. for food service provision at the County Correctional Facilities.

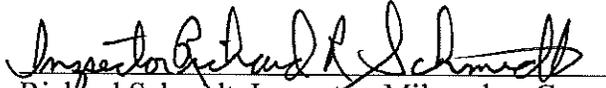
The term of the contract approved by County Board File No. 08-428 was from January 1, 2009 until December 31, 2010 with an additional three one-year extension subject to the approval of the County Board's Judiciary Committee. The total term of the contract is not to exceed a total of five years.

Service to the Community Since 1835

821 West State Street • Milwaukee, Wisconsin 53233-1488
 414-278-4766 • <http://www.mksheriff.org>

FISCAL NOTE

The 2011 Adopted Budget for the Office of the Sheriff includes funding of \$3,725,759 for food service provision which will be sufficient for the contract costs for 2011.



Richard Schmidt, Inspector, Milwaukee County Office of the Sheriff

cc: Willie Johnson, Jr., Chairman, Judiciary, Safety and General Services Committee
Jon Priebe, Public Safety Fiscal Administrator

Service to the Community Since 1835

821 West State Street • Milwaukee, Wisconsin 53233-1488
414-278-4766 • <http://www.mksheriff.org>

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2
3 (ITEM) From the Sheriff requesting to grant an amendment to Aramark
4 Correctional Services, Inc. for Food Service provision at the County
5 Correctional Facilities:

6 A RESOLUTION

7 WHEREAS, the Sheriff of Milwaukee County requests the authority to grant
8 an amendment to an existing contract with Aramark Correctional Services, Inc. for
9 the provision of food service at the County Correctional Facilities for the period of
10 January 1, 2010 until December 31, 2011; and

11
12 WHEREAS, the CCFS, formerly the HOC, began contracting for food services in
13 2003 with Aramark Correctional Services, Inc. with an initial five-year contract that was
14 completed on December 31, 2008; and

15
16 WHEREAS, in the fall of 2008, the CCFS issued an RFP for food service
17 provision and Aramark was selected as the provider; and

18
19 WHEREAS, in December of 2008, County Board File No. 08-428 was
20 approved which granted the CCFS the authority to enter into a contract with Aramark
21 Correctional Services, Inc. for food service provision at the County Correctional
22 Facilities; and

23
24 WHEREAS, the term of the contract approved by County Board File No. 08-428
25 was from January 1, 2009 until December 31, 2010 with an additional three one-year
26 extensions subject to the approval of the County Board's Judiciary Committee and the
27 total term of the contract is not to exceed a total of five years; now, therefore,

28
29 BE IT RESOLVED, the Sheriff is hereby authorized to grant an extension to
30 the existing contract with Aramark Correctional Services for food service provision
31 for the period of January 1, 2011 to December 31, 2011.

32
33 FISCAL NOTE

34
35 The 2011 Adopted Budget for the Office of the Sheriff includes funding of
36 \$3,725,759 for food service provision which will be sufficient for the contract costs
37 for 2011.
38

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 2/17/11

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: The Sheriff of Milwaukee County requests the authority to grant an amendment to Aramark Correctional Services, Inc. for Food Service provision at the County Correctional Facilities

FISCAL EFFECT:

- | | |
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| <input checked="" type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input checked="" type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	
	Revenue	0	
	Net Cost	0	
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

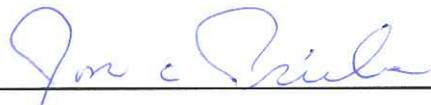
DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

The Sheriff of Milwaukee County is requesting the authority to grant an amendment to an existing contract with Aramark Correctional Services, Inc. for the provision of food service at the County Correctional Facilities for the period of January 1, 2011 to December 31, 2011. The 2011 Adopted Budget for the Office of the Sheriff includes funding of \$3,725,759 for food service provision which will be sufficient for the contract costs for 2011.

Department/Prepared By Molly Pahl, Fiscal Operations Manager

Authorized Signature 

Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.



County of Milwaukee
Office of the Sheriff

David A. Clarke, Jr.
Sheriff

DATE: February 17, 2011

TO: Supervisor Lee Holloway, Chairman, County Board of Supervisors

FROM: Richard Schmidt, Inspector, Milwaukee County Office of the Sheriff

SUBJECT: **Notification of an Amendment to a Professional Service Contract with Attic Correctional Services to provide Alcohol and Other Drug Abuse Treatment and Cognitive Intervention Classes at the County Correctional Facility – South.**

County Board File No. 08-437 approved the execution of a professional service contract between ATTIC Correctional Services and Milwaukee County for the provision of AODA and other services. The annual contract was in the amount of \$42,000. As a part of the resolution that was adopted, the CCFS was authorized to amend the contract should additional grant funding become available. Grant funding was awarded and an amendment was executed in the fall of 2009 to reflect increased grant funding.

The Office of the Sheriff was informed on September 7, 2010 that the Wisconsin Office of Justice Assistance has an additional grant award of \$16,582 that is available from the Residential Substance Abuse Treatment program. These funds were made available to the County Correctional Center South (CCFS). The grant has a match requirement of \$5,528 for a total project fund of \$22,110. The 2011 Adopted Budget authorized the Office of the Sheriff to spend \$42,000 on AODA treatment and this funding will be used for the match.

The funds will be used for the AODA cognitive intervention program. The grant funds must be spent prior to March 31, 2012. The program provides substance abuse treatment and cognitive intervention classes. The program is designed for those who have substance abuse issues and a history of criminal conduct by offering the treatment needed to make a successful transition from incarceration to a drug-free, crime-free lifestyle by addressing factors that have proven to reduce recidivism.

The CCFS currently contracts with Attic Correctional Services for similar type classes. The Office of the Sheriff will submit an appropriation transfer to the Finance and Audit committee to recognize the receipt of this revenue and to request the establishment of expenditure authority related to the grant funding. The amended contract is for the time period January 1, 2011 through December 31, 2011 in the amount of \$58,582, which is comprised of the original contract of \$42,000 plus the additional grant funding of \$16,582.


Richard Schmidt, Inspector
Office of the Sheriff
Milwaukee County

cc: Marvin Pratt, County Executive
Sup. Willie Johnson, Jr., Chair, Judiciary, Safety & General Services
Committee
Jon Priebe, Public Safety Fiscal Administrator, Sheriff's Office
John Ruggini, Fiscal and Budget Administrator, DAS
Linda Durham, Committee Clerk
Rick Ceschin, Research Analyst



County of Milwaukee
Office of the Sheriff

David A. Clarke, Jr.
Sheriff

DATE: February 25, 2011

TO: Marvin Pratt, County Executive
 Supervisor Lee Holloway, County Board Chairman
 Supervisor Johnnie Thomas, Chair, Finance and Audit Committee
 Supervisor Willie Johnson, Jr., Chair, Judiciary, Public Safety and General Services Committee
 John Ruggini, Fiscal and Budget Administrator, Department of Administrative Services

FROM: Jon C. Priebe, Public Safety Fiscal Administrator

SUBJECT: Projected Revenue Deficit in Excess of \$75,000

Milwaukee County Ordinance 56.02 requires each person in charge of any County Office, department agency, or any non-departmental account to submit a written report to the County Executive, the Finance Committee of the County Board and the Department of Administrative Services, whenever such person has reason to know or believe that a deficit of \$75,000 or more in any revenue account will occur for the division of county government under the supervision of that person.

BACKGROUND

Huber/Home Detention

The Office of the Sheriff assumed operation of the home detention and Huber programs formerly run by the House of Correction (HOC) with the adoption of the 2009 Budget. Employed Home detention and Huber inmates pay a daily fee of \$24.00, as established by County Ordinance. For 2011, the Sheriff's Requested Budget included revenue of \$788,400 based on 90 employed Huber/Work Release inmates paying \$24.00 per day. This amount was increased in the County Executive's Recommended budget by \$578,160 to reflect a projected increase in employed inmates of 66 to a total projected employed Huber/Work

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Release inmate count of 156 and total revenue of \$1,366,560. The 2011 Adopted Budget retained the increased revenue amount proposed by the County Executive.

During the first five months of 2010, the number of employed Huber/Work Release inmates averaged 81 inmates per day. The number of employed Huber/Work Release inmates during the most recent five months from October 2010 through February 2011 has averaged only 52 inmates per day. If the number of employed Huber/Work Release inmates remains at this level for the remainder of 2011, a Huber Board revenue deficit of approximately \$911,000 will be realized for 2011.

CORRECTIVE ACTION PLAN

In order to offset this projected revenue deficit, the Sheriff has discontinued the three contracts with Wisconsin Community Services for assessment, job seeking skills and development; job placement; and Print Shop Training. WCS has been notified that the contracts are terminated effective March 1, 2011. The annual costs for the contracts are as follows: Assessment = \$58,401, Job Seeking Skills and Development = \$242,217 and Print Shop Training and Job Placement Program = \$48,745. It is estimated that the termination of these contracts will result in savings of \$291,135 for the remainder of 2011.

In addition, the Sheriff is requesting that the County Board establish the following fees for services provided by the Sheriff's Office:

1. Implement a charge of \$75 for each Sheriff Sale adjournment. Currently, the Sheriff's Office charges a fee of \$75 to set up a Sheriff's Sale of real estate and another \$75 for completing the sale. There is no charge for an adjournment request of the sale. Each adjournment requires reprocessing similar to setting up an initial Sheriff's Sale. In 2010, there were 1,696 adjournments which would have resulted in revenue of \$127,200 if an adjournment fee of \$75 would have been charged. It is projected that this change would result in revenue for the remainder of 2011 of approximately \$100,000.
2. Change the fee for Civil Process service from \$35 per attempt to a one-time non-refundable payment of \$60 for up to 3 attempts. Currently, the Sheriff's Office requires a prepayment of \$35 for the service of Civil Process. The deputy attempting service logs the date and time of each service attempt and prepares an affidavit of service. This service information is used by fiscal staff to prepare approximately 200 invoices per month for additional service attempts. Approval of this proposed fee change will reduce staff time associated with billing and collections and is projected to result in a revenue increase of \$25,000 to \$50,000 in 2011.
3. Implement a set-up fee for all participants in home detention and an equipment fee for all participants. Currently, the Sheriff's Office monitors inmates on home detention via voice print monitoring, GPS monitoring or GPS/SCRAM monitoring. Employed home detention inmates are charged \$24 per day. Unemployed home detention inmates are not

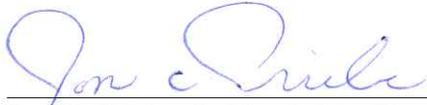
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charged anything. The pre-trial offenders who are on home detention under the jurisdiction of the Courts are charged an assessment and installation fee. The fees are \$50 for GPS installation and assessment and \$110 for SCRAM installation and assessment. If the Sheriff's Office charged \$50 for each voice print or GPS setup and \$110 for each SCRAM setup for the remainder of 2011, it is projected to result in additional revenue of \$90,000 for the remainder of 2011.

In addition, the Sheriff's Office pays an outside vendor \$1.25 per day for each inmate on voice print, \$5.00 per day for each inmate on GPS and \$8.25 per day for each inmate on SCRAM. If the Sheriff's Office charged the unemployed home detention inmates for these equipment costs, it is projected to result in additional revenue of \$290,000 for the remainder of 2011.



Jon C. Priebe, Public Safety Fiscal Administrator
Office of the Sheriff, Milwaukee County

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1 A Resolution / Ordinance

2 Amending Chapter 20 of the Milwaukee County Code of General Ordinances, to
3 implement a set-up fee for all participants in the home detention program and an
4 equipment fee for all employed participants in the home detention program and
5 implementing a fee for each Sheriff Sale Adjournment and changing the fee for Civil
6 Process service.

7 WHEREAS, the Office of the Sheriff requests to implement a charge of \$75 for each
8 Sheriff Sale adjournment and Wisconsin State Statute 814.705 grants the County Board to
9 establish such fee at a rate higher than cited in State Statute 814.70; and

10 WHEREAS, currently, the Sheriff's Office charges a fee of \$75 to set up a Sheriff's
11 Sale of real estate and another \$75 for completing the sale, however, there is no charge for
12 an adjournment request of the sale and each adjournment requires reprocessing similar to
13 setting up an initial Sheriff's Sale and it is projected that this change would result in
14 revenue for the remainder of 2011 of approximately \$100,000; and

15 WHEREAS, the Office of the Sheriff requests to change the fee for Civil Process
16 service from \$35 per attempt to a one-time non-refundable payment of \$60 for up to 3
17 attempts and Wisconsin State Statute 814.705 grants the County Board to establish such fee
18 at a rate higher than cited in State Statute 814.70; and

19 WHEREAS, currently, the Sheriff's Office requires a prepayment of \$35 for the
20 service of Civil Process and the deputy attempting service logs the date and time of each
21 service attempt and prepares an affidavit of service and this service information is used by
22 fiscal staff to prepare approximately 200 invoices per month for additional service attempts
23 and approval of this proposed fee change will reduce staff time associated with billing and
24 collections and is projected to result in a revenue increase of \$25,000 to \$50,000 in 2011;
25 and

26 WHEREAS, the Office of the Sheriff is requesting to implement a set-up fee for all
27 participants in home detention and an equipment fee for all unemployed participants and
28 currently, the Sheriff's Office monitors inmates on home detention via voice print
29 monitoring, GPS monitoring or GPS/SCRAM monitoring; and

30 WHEREAS, employed home detention inmates are charged \$24 per day per County
31 Board Ordinance 20.01 and unemployed home detention inmates are not charged; and

32 WHEREAS, the pre-trial offenders who are on home detention under the jurisdiction
33 of the Courts are charged an assessment and installation fee of \$50 for GPS installation and
34 assessment and \$110 for SCRAM installation and assessment; and

35 WHEREAS, if the Sheriff's Office charged \$50 for each voice print or GPS setup and
36 \$110 for each SCRAM setup for the remainder of 2011, it is projected to result in
37 additional revenue of \$90,000 for the remainder of 2011; and

38 WHEREAS, in addition, the Sheriff's Office pays an outside vendor \$1.25 per day for
39 each inmate on voice print, \$5.00 per day for each inmate on GPS and \$8.25 per day for
40 each inmate on SCRAM and if the Sheriff's Office charged the unemployed home detention
41 inmates for these equipment costs, it is projected to result in additional revenue of
42 \$290,000 for the remainder of 2011; now, therefore,

43 BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby
44 authorizes the Office of the Sheriff to implement a charge of \$75 for each Sheriff Sale
45 adjournment; and

46 BE IT FURTHERED RESOLVED, that the Milwaukee County Board of Supervisors
47 hereby authorizes the Office of the Sheriff to change the fee for Civil Process service from
48 \$35 per attempt to a one-time non-refundable payment of \$60 for up to three attempts; and

49 BE IT FURTHERED RESOLVED, that the Milwaukee County Board of Supervisors
50 hereby amends Chapter 20.01 of the Milwaukee County Code of General Ordinances by
51 adopting the following:

52

53 AN ORDINANCE

54 The Milwaukee County Board of Supervisors ordains as follows:

55 20.01. Cost of maintaining prisoners at county jail and house of correction.

56 The cost of maintenance for prisoners confined in county jail or the house of correction for
57 violation of city or village ordinances, resolutions or bylaws is hereby fixed at the per diem
58 cost of each establishment as determined by the county department of administration on
59 April 1 of each year and based upon out of pocket expenses of the preceding calendar year
60 for each separate institution. The sheriff and superintendent of the house of correction,
61 respectively, shall at regular intervals bill cities and villages for the above maintenance
62 charges of their prisoners, and shall specify therein such data as may reasonably be
63 required for such purposes.

64

65 Each prisoner listed in s. 303.08(4), Wis. Stats. is liable for charges in an amount of twenty-
66 four dollars (\$24.00) per day, which represents the cost of his/her board in the jail or house
67 of correction if confined pursuant to s. 303.08, Wis. Stats., Huber Law or s. 973.09(4), Wis.
68 Stats., conditions of probation. In addition, those inmates on electronic surveillance shall
69 be charged a rate of twenty four dollars (\$24.00) per day. The ~~superintendent of the house~~
70 ~~of correction~~ Sheriff is authorized to accept credit cards for the payment of board provided
71 that any charges imposed by the credit card firm are added to the daily board rate. In
72 addition, the ~~superintendent of the house of correction~~ Sheriff is authorized to impose a
73 reasonable charge, not to exceed costs, for random urine tests for controlled substances,
74 which result in a positive finding. And if the result of the random test is positive, the
75 ~~superintendent~~ Sheriff may impose a reasonable charge, not to exceed the cost for regular

76 follow-up urine tests for all controlled substances. The county department of administration
77 on April 1 of each year shall render a report to the county board detailing the costs of
78 maintenance and board experienced for the preceding calendar year. The sheriff and
79 superintendent of the house of correction shall charge the account of each prisoner
80 gainfully employed accordingly and shall collect and disburse to the county treasurer all
81 such proceeds from the wages or salaries of employed prisoners. In addition, each inmate
82 shall pay a set-up and equipment fee of \$50 for GPS and voice print installation and
83 assessment and \$110 for SCRAM installation and assessment. Unemployed home
84 detention inmates shall pay equipment costs per day of the following: \$1.25 per day for
85 each inmate on voice print, \$5.00 per day for each inmate on GPS and \$8.25 per day for
86 each inmate on SCRAM.

87

88

89 SECTION 4.

90 The provisions of this Ordinance shall become effective upon passage and publication.

91

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: 2/28/11

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: The Sheriff of Milwaukee County requests the authority to implement a corrective action plan adjusting various fees to offset a projected revenue deficit

FISCAL EFFECT:

- | | |
|--|--|
| <input type="checkbox"/> No Direct County Fiscal Impact | <input type="checkbox"/> Increase Capital Expenditures |
| <input type="checkbox"/> Existing Staff Time Required | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues |
| <input type="checkbox"/> Absorbed Within Agency's Budget | <input type="checkbox"/> Decrease Capital Revenues |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget | |
| <input type="checkbox"/> Decrease Operating Expenditures | <input type="checkbox"/> Use of contingent funds |
| <input checked="" type="checkbox"/> Increase Operating Revenues | |
| <input type="checkbox"/> Decrease Operating Revenues | |

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	
	Revenue	530,000	636,000
	Net Cost	530,000	636,000
Capital Improvement Budget	Expenditure		
	Revenue		
	Net Cost		

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

The Office of the Sheriff is projected a revenue deficit of \$911,000 due to a lower than budgeted number of employed Huber/Work Release inmates in 2011. The Office of the Sheriff has constructed a corrective action plan to offset the loss of revenue that includes the discontinuation of contracts with Wisconsin Community Services and the implementation of revenue changes.

The Sheriff of Milwaukee County is requesting the authority to implement a set-up and equipment fee for all participants in the home detention program and implementing a fee for each Sheriff Sale Adjournment and changing the fee for Civil Process service as detailed below:

1. Implement a charge of \$75 for each Sheriff Sale adjournment. Currently, the Sheriff's Office charges a fee of \$75 to set up a Sheriff's Sale of real estate and another \$75 for completing the sale. There is no charge for an adjournment request of the sale. Each adjournment requires reprocessing similar to setting up an initial Sheriff's Sale. In 2010, there were 1,696 adjournments which would have resulted in revenue of \$127,200 if an adjournment for of \$75 would have been charged. It is projected that this change would result in revenue for the remainder of 2011 of approximately \$100,000.
2. Change the fee for Civil Process service from \$35 per attempt to a one-time non-refundable payment of \$60 for up to 3 attempts. Currently, the Sheriff's Office requires a prepayment of \$35 for the service of Civil Process. The deputy attempting service logs the date and time of each service attempt and prepares an affidavit of service. This service information is used by fiscal staff to prepare approximately 200 invoices per month for additional service attempts. Approval of this proposed fee change will reduce staff time associated with billing and collections and is projected to result in a revenue increase of \$25,000 to \$50,000 in 2011.

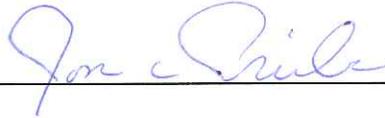
¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

3. Implement a set-up fee for all participants in home detention and an equipment fee for all participants. Currently, the Sheriff's Office monitors inmates on home detention via voice print monitoring, GPS monitoring or GPS/SCRAM monitoring. Employed home detention inmates are charged \$24 per day. Unemployed home detention inmates are not charged anything. The pre-trial offenders who are on home detention under the jurisdiction of the Courts are charged an assessment and installation fee. The fees are \$50 for GPS installation and assessment and \$110 for SCRAM installation and assessment. If the Sheriff's Office charged \$50 for each voice print or GPS setup and \$110 for each SCRAM setup for the remainder of 2011, it is projected to result in additional revenue of \$90,000 for the remainder of 2011.

In addition, the Sheriff's Office pays an outside vendor \$1.25 per day for each inmate on voice print, \$5.00 per day for each inmate on GPS and \$8.25 per day for each inmate on SCRAM. If the Sheriff's Office charged the unemployed home detention inmates for these equipment costs, it is projected to result in additional revenue of \$290,000 for the remainder of 2011.

Department/Prepared By Molly Pahl, Fiscal Operations Manager

Authorized Signature



Did DAS-Fiscal Staff Review?

Yes

No

MARVIN PRATT, MILWAUKEE COUNTY EXECUTIVE
SUE BLACK, DIRECTOR OF PARKS, RECREATION AND CULTURE

Date: March 1, 2011

To: Willie Johnson, Jr., Chair, Judiciary, Safety and General Services
Gerry Broderick, Chair, Parks, Energy and Environment Committee

From: Sue Black, Director, Department of Parks, Recreation and Culture

Subject: Renegotiation of the Farm and Fish Hatchery Lease between Milwaukee County and Hunger Task Force - Informational

ISSUE

The 2011 Adopted Operating Budget provided that the Director of the Department of Parks, Recreation and Culture (DPRC), Corporation Counsel and County Board staff will renegotiate the Farm and Fish Hatchery (FFH) lease with Hunger Task Force (HTF).

BACKGROUND

The 2010 Adopted Budget transferred FFH Operations from the Office of the Sheriff to DPRC as of July 1, 2010. The transfer of FFH did take place and is complete. Since the transition, DPRC has worked closely with HTF and the Office of the Sheriff to ensure that FFH operates effectively.

The 2011 Adopted Operating Budget provided that DPRC, Corporation Counsel and County Board staff are to renegotiate the FFH lease with HTF, and include, as part of the renegotiations, moving away from the use of inmate labor at FFH to the hiring of job training program participants (e.g. New Hope and the Wisconsin Regional Training Partnership). DPRC, Corporation Counsel and County Board staff have met with HTF to begin renegotiating the lease. Also, the Office of the Sheriff has been informed that lease negotiations with HTF are taking place and that any concerns the Sheriff's Office might have with the negotiations will be included in the discussions. HTF has informed DPRC that as of 2011 HTF will no longer use inmate labor at FFH, instead HTF will employ transitional workers inline with the County's request it move away from the use of inmate labor at FFH in favor of job training participants.

This effort continues to be a work in progress and we will report to the committee again after an agreement is reached.

RECOMMENDATION

No action requested. Informational item unless further action required.

Prepared by: Paul Kuglitsch, Contract Services Officer/DPRC

Recommended by:

Approved by:

James Keegan, Chief of Administration and
External Affairs

Sue Black, Parks Director

cc: County Executive Marvin Pratt
E. Marie Broussard, Deputy Chief of Staff, County Executive's Office
Terrence Cooley, Chief of Staff, County Board
John Ruggini, Interim Fiscal & Budget Administrator, Admin & Fiscal Affairs/DAS
Supv. Willi Johnson, Jr., Chairman, Judiciary, Safety and General Services Committee
Supv. Lynne De Bruin, Vice-Chair, Judiciary, Safety and General Services Committee
Supv. Gerry Broderick, Chairman, Parks, Energy & Environment Committee
Supv. Joe Sanfelippo, Vice-Chair, Parks, Energy & Environment Committee
Inspector Richard Schmidt, Office of the Sheriff
Josh Fudge, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Sarah Jankowski, Fiscal Mgt. Analyst, Admin & Fiscal Affairs/DAS
Linda Durham, Judiciary, Safety and General Services Committee Clerk
Rick Ceschin, Research Analyst, County Board
Julie Esch, Research Analyst, County Board



OFFICE OF CORPORATION COUNSEL

Milwaukee County

TIMOTHY R. SCHOEWE
Acting Corporation Counsel

ROBERT E. ANDREWS
Deputy Corporation Counsel

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JEANEEN J. DEHRING
ROY L. WILLIAMS
COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: February 7, 2011

TO: Mr. Lee Holloway, Chairman
Milwaukee County Board of Supervisors

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: Claim filed by: Santos Tase Soto
1423 S. 5th Street
Date Claim Filed: November 18, 2010

On August 8, 2010, Milwaukee Deputy Sheriff Lavelle Morgan was backing his county squad out of a parking stall in the parking lot at Mitchell Park when his vehicle struck another vehicle which was driving down the lane that Deputy Morgan was backing into. An investigation completed by the City of Milwaukee Police Department determined that Deputy Morgan was at fault for failing to yield the right of way.

The vehicle that was struck is a 1998 Chevy Astro Van owned and operated by Santos Tase Soto. The county's insurer obtained the services of an appraiser to determine the value of the claim. It was the opinion of the appraiser that the estimated costs of repairs of \$3,920.45 exceeded the actual cash value of the vehicle at \$3,853. The claimant wanted to retain his vehicle. So the cash value was reduced by the salvage value of the vehicle resulting in an agreement to settle Mr. Soto's claim for \$3,650. Both the county's insurance company and Corporation Counsel supports this agreement.

Please refer this matter to the Judiciary Committee to be placed on the agenda for its next meeting. At that time we will appear seeking approval of the agreement. Thank you.

REA/rf

cc: Linda Durham
Jennifer Mueller
Barb Pariseau



OFFICE OF CORPORATION COUNSEL

Milwaukee County

8

TIMOTHY R. SCHOEWE
Acting Corporation Counsel

ROBERT E. ANDREWS
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MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: February 4, 2011

TO: Mr. Lee Holloway, Chairman
Milwaukee County Board of Supervisors

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: Claim filed by: Acuity on behalf of Jerome & Joan Kondrakiewicz
Date Claim Filed: March 9, 2010

On March 2, 2010 Milwaukee County employee Wendy Carter was operating a county plow performing routine winter maintenance. While plowing northbound on North 88th Street approaching from the other southbound lane was a 2007 Chevy Sebring owned and operating by Joan Kondrakiewicz. At this location North 88th Street is a narrow two-lane roadway with vehicles parked on both sides. Ms. Kondrakiewicz stated that when she saw the truck she pulled to the side of the road as far as she was able.

Unfortunately, there was not sufficient clearance for the plow to pass the other vehicle without striking it. Damage to the Sebring was located on the driver's side rear door, quarter panel and rear bumper. The investigating City of Milwaukee Police Officer concluded that the majority of negligence should rest with the county employee.

Ms. Kondrakiewicz elected to have the accident related damage repaired through her insurance carrier, Acuity Insurance. Acuity has submitted subrogation documents to support its claim for \$4,079.61. This consists of \$3,838.08 for body repair and \$241.53 for rental charges during the time the vehicle was in the body shop.

Neogtiations between our insurance company and Acutiy resulted in the agreement that the damages would be split on an approximate 75/25 basis. Such an arrangement calls for the payment of \$3,122.21 to Acutiy Insurance in full settlement of all of its claims arising out of the March 2, 2010 motor vehicle accident. Corporation Counsel supports this resolution.

Please refer this matter to the Judiciary Committee to be placed on the agenda for its next meeting. At that time we will appear seeking approval of the intended settlement. Thank you.

REA/rf

cc: Linda Durham
Jennifer Mueller
Barb Pariseau



OFFICE OF CORPORATION COUNSEL

Milwaukee County

9

TIMOTHY R. SCHOEWE
Acting Corporation Counsel

ROBERT E. ANDREWS
Deputy Corporation Counsel

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LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: February 7, 2011

TO: Mr. Lee Holloway, Chairman
Milwaukee County Board of Supervisors

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: Claim filed by: American Family Insurance Group for Oltion Voshtina
Date Claim Filed: December 3, 2010

On October 27, 2010 Milwaukee County Forestry worker, Keith Antoniewicz, with other county employees, was in the process of cutting down a large tree on county property in the 1700 block of North Lincoln Memorial Drive. Precautions were taken with the use of ropes to guide the fall of the tree after it was cut.

Unfortunately, while the trunk was being cut it twisted and fell in the opposite direction. The tree struck a legally parked 2001 Kia Sportage which is owned by Oltion Voshtina and insured by American Family. American Family provided documentation that the cost of repair for the accident related damage was \$2,467.22 (including its insured's deductible). Our adjustor determined that the amount of the subrogation claim of American Family is fair and reasonable. The adjustor along with Corporation Counsel recommends the payment of \$2,567.22 in full settlement of its and its insurer's claim arising out of the October 27, 2010 incident.

Please refer this matter to the Judiciary Committee to be placed on the agenda for its next meeting. At that time we will appear seeking approval of the agreement. Thank you.

REA/rf

cc: Linda Durham
Jennifer Mueller
Barb Pariseau



OFFICE OF CORPORATION COUNSEL

Milwaukee County

10

TIMOTHY R. SCHOEWE
Acting Corporation Counsel

ROBERT E. ANDREWS
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LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: February 7, 2011

TO: Mr. Lee Holloway, Chairman
Milwaukee County Board of Supervisors

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: Claim filed by: Pernell Robinson
2433 N. 49th Street
Milwaukee, WI
Date Claim Filed: June 8, 2010

On March 29, 2010, Pernell Robinson was incarcerated at the Sheriff's Department County Correctional Facility-Central. According to the records Mr. Robinson was initially booked into the CCF-Central on March 27th. His personal property was put in a sealed bag and his money was deposited into his account.

The next day Mr. Robinson was transferred to CCF-South. On March 29th the Central property clerk was notified that a white shirt and sealed bag belonging to Mr. Robinson was not transferred with him. Mr. Robinson was released on March 29th without the property listed on his property receipt. These included diamond earrings, a cell phone, shoes, keys and a wallet. The sheriff's property receipt documents the presence of the items at the CCF-Central. However, there is no documentation that the property was transferred to the CCF-South. They made an extensive search in the property room for the items met with negative results. The sheriff's department and the county's adjustor acknowledge liability. Mr. Robinson filed a claim for \$2,025. The county's adjustor determined that \$1,000 was a more appropriate amount to resolve this claim. Mr. Robinson eventually agreed to accept that amount. Therefore, the county's adjustor and Corporation Counsel agree to the payment of \$1,000 to Pernell Robinson to settle in full his claim for missing property.

Please forward this matter to the Judiciary Committee so that it may be placed on the agenda for its next meeting. Thank you.

REA/rf

cc: Linda Durham
Jennifer Mueller
Barb Pariseau



OFFICE OF CORPORATION COUNSEL

Milwaukee County

11

TIMOTHY R. SCHOEWE
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LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: February 7, 2011

TO: Mr. Lee Holloway, Chairman
Milwaukee County Board of Supervisors

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: Claim filed by: Marvin Paluszynski
6125 S. Tarbert
Cudahy, WI
Date Claim Filed: December 6, 2010

On November 23, 2010 Milwaukee County Deputy Sheriff Donna Scalise was operating a county squad on a road adjacent to the 5600 block of South Pennsylvania Avenue in Cudahy. After stopping for a stop sign the deputy decided to back her car so that she could turn the squad around. However, the deputy did not notice the presence of a 2010 Nissan Altima which was located immediately behind her also stopped. Before she could stop the squad it struck the front of the Altima. Per department policy the accident was investigated by the City of Cudahy Police Department.

All parties agreed that Milwaukee County is responsible for the damages caused by the incident. Mr. Paluszynski submitted an estimate in the amount of \$643.74 for the repair. The county's insurer has accepted this estimate and now recommends that Mr. Paluszynski be paid \$643.74 in full settlement of the claim arising out of the November 23, 2010 motor vehicle accident.

Please forward this matter to the Judiciary Committee so that it may be placed on the agenda for its next meeting. Corporation Counsel will appear to recommend the approval of this payment. Thank you.

REA/rf

cc: Linda Durham
Jennifer Mueller
Barb Pariseau



OFFICE OF CORPORATION COUNSEL

Milwaukee County

TIMOTHY R. SCHOEWE
Acting Corporation Counsel

12

ROBERT E. ANDREWS
Deputy Corporation Counsel

JOHN F. JORGENSEN
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COLLEEN A. FOLEY
LEE R. JONES
MOLLY J. ZILLIG
Principal Assistant
Corporation Counsel

DATE: February 7, 2011

TO: Mr. Lee Holloway, Chairman
Milwaukee County Board of Supervisors

FROM: Robert E. Andrews, Deputy Corporation Counsel

SUBJECT: Claim filed by: Garda
Northbrook, IL
Date Claim Filed: September 23, 2010

On February 9, 2010 Milwaukee County employee Matthew Schoenherr was operating a county plow in the median of West Good Hope Road after coming off of North 110th Street. Subsequently to stopping for the stop sign he pulled the county truck into the westbound lanes of West Good Hope Road to continue plowing. Mr. Schoenherr failed to notice a 2007 Ford Ranger which was westbound on North 110th Street with the right of way. The plow on the county's truck struck the driver's side of the Ford Ranger. Although he was not cited it was the conclusion of the City of Milwaukee Police Department that Mr. Schoenherr failed to yield the right of way.

The Ford Ranger was owned by Garda which is a national company that operates armored vehicles for the transportation of cash and other money instruments. This particular vehicle was owned by Donlen Trust out of Northbrook, Illinois. Garda has submitted documentation to support a claim for \$7,478.70. The claim includes towing charges which were necessary as the Ranger was non-drivable after the collision.

The county's adjustor has determined that Garda has proven its claim and is entitled to be paid \$7,478.70. Corporation Counsel agrees.

Please refer this matter to the Judiciary Committee so that it may be placed on the agenda for its next meeting. At that time Corporation Counsel will appear and seek the committee's recommendation that the County Board approve the payment of \$7,478.70 to Garda in full settlement of all claims arising out of the February 9, 2010 motor vehicle accident. Thank you.

REA/rf

cc: Linda Durham
Jennifer Mueller
Barb Pariseau

RESOLUTION

Re: Claim filed by Millers Classified Insurance Companies Re: Garda
Date Claim Filed: September 23, 2010

WHEREAS, on February 9, 2010 Milwaukee County employee Matthew Schoenherr was operating a county plow at the intersection of North 110th Street and West Good Hope Road, and,

WHEREAS, Mr. Schoenherr drove the county plow into the westbound lanes of West Good Hope Road while failing to observe a 2007 Ford Ranger which was westbound on West Good Hope road, and,

WHEREAS, because of Mr. Schoenherr failing to yield the right of way the county plow struck the driver's side of the Ford Ranger, and,

WHEREAS, the 2007 Ford Ranger is owned by Garda which has submitted documentation to support its claim for the repair of its vehicle in the amount of \$7,478.70, and Corporation Counsel agrees with the conclusion of the county's insurer that Garda be paid in full the amount of its claim, and,

WHEREAS, the Committee on Judiciary, Safety and General Services at its meeting on March 3, 2011 voted () to recommend payment; now, therefore;

BE IT RESOLVED, that Milwaukee County approves the payment of \$7,478.70 to Garda to settle in full all property damage claims arising out of the February 9, 2010 motor vehicle accident.

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: February 7, 2011

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: Claim filed by: Garda

FISCAL EFFECT:

- | | |
|---|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact
<input type="checkbox"/> Existing Staff Time Required
<input type="checkbox"/> Increase Operating Expenditures
(If checked, check one of two boxes below)
<input type="checkbox"/> Absorbed Within Agency's Budget
<input type="checkbox"/> Not Absorbed Within Agency's Budget
<input type="checkbox"/> Decrease Operating Expenditures
<input type="checkbox"/> Increase Operating Revenues
<input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures
<input type="checkbox"/> Decrease Capital Expenditures
<input type="checkbox"/> Increase Capital Revenues
<input type="checkbox"/> Decrease Capital Revenues
<input type="checkbox"/> Use of contingent funds |
|---|--|

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0
Capital Improvement Budget	Expenditure	0	0
	Revenue	0	0
	Net Cost	0	0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Approval of this Resolution will result in the amount of \$7,478.70 to be applied to Milwaukee County's 2010 deductible with Wisconsin County Mutual Insurance Corporation.

Department/Prepared By Corporation Counsel

Authorized Signature _____

Did DAS-Fiscal Staff Review? Yes No

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

COUNTY OF MILWAUKEE
Interoffice Memorandum

DATE: January 18, 2011

TO: Supervisor Willie Johnson, Jr., Chairman, Committee on Judiciary, Safety and General Services

FROM: Rick Ceschin, Research Analyst

SUBJECT: Committee Referral of File No. 10-396 – relating to access by the County Auditor to privileged information.

Issue

At the November 4, 2010 special meeting of the Committee on Judiciary, Safety and General Services, the Committee recommended approval of the subject file and further requested County Board staff to consult with the Department of Audit and the Office of Corporation Counsel to provide recommendations relative to allowing the County Auditor privileged and confidential access to all records of County government. File no. 10-396 was subsequently adopted by the County Board at its meeting on the same date.

Discussion

Board staff conferred with the Office of Corporation Counsel and the Director of Audits as directed. Corporation Counsel and the Director of Audits both noted that s. 57.04 of the Milwaukee County Code of General Ordinances (MCGO) currently provides access authority for the Director of Audits:

The documents, books and records of each county office, department, board or commission, or any agency receiving a grant of county funds, or any agency receiving a grant of federal or state funds through the county and for which the county is accountable shall be available to the director of audits at any and all times with or without notice. Every county unit and grantee is to cooperate with the director of audits and comply with all requests for information relating to this function.

Additionally, s. 1.11 MCGO, as currently constructed, could reasonably be interpreted as providing the Judiciary Committee with authority with regard to “[I]legal questions pertaining to suits or claims against the county.” Corporation Counsel suggests this provision gives “general superintending authority” over litigation matters, including decisions regarding access to information that may be protected as privileged under attorney-client or attorney-work product rules.

However, beyond the existing ordinance language, policy makers may wish to add clarifying language to remove any ambiguities with regard to the intent of the ordinance. The proposed ordinance revisions, attached here, are aimed at solidifying the integral role the Department of Audit plays in Milwaukee County government and empowering the County Board to bring audit resources to bear in the County’s interests.

Recommendation

Corporation Counsel makes a compelling argument that revisions to County ordinances are not necessary as sufficient authority exists under s. 1.11 and 57.04 to allow review of and access to records as needed by the Committee. However, Board staff and Audit agree that adoption of the attached ordinance revisions, while not specifically adding additional oversight and access, would certainly help to remove any ambiguity with regard to the intent of the those sections of the code.

Cc: Judiciary Committee members
County Board Chairman
Corporation Counsel
Director of Audits

AN ORDINANCE

Amending Chapter 1 and Chapter 57 of the Milwaukee County Code of General Ordinances.

The County Board of Supervisors of the County of Milwaukee does ordain as follows:

SECTION 1. Section 1.11 (c)(4) of the General Ordinances of Milwaukee County is amended as follows:

1.11 Standing committees

(c) The duties of such committees shall be to have charge of the several matters hereinafter designated but such enumeration shall not be exclusive:

(4) Committee on judiciary, safety and general services

1. Departmental policy of: county funded state court services, family court commissioner, jury commission, register in probate, election commission, county clerk, register of deeds, sheriff, medical examiner, legal resource center, district attorney, house of correction, department of child support enforcement, corporation counsel, emergency government.
2. Review of all matters ~~Legal questions~~ pertaining to suits or claims by or against the county. The Committee shall be afforded confidential access to privileged attorney-client communication and to attorney work product in any matter where Milwaukee County or a Milwaukee County officer or employee is named as a party in an action or proceeding arising from the commission of official duties.
3. Claims for workers compensation.
4. Personal injuries.
5. Property damage.
6. Applications for licenses requiring action by the county board.
7. Purchase of surety bonds.
8. Action required by state statute.

SECTION 2. Section 57.04 of the General Ordinances of Milwaukee County is amended as follows:

57.04. Availability of records to director of audits.

37 The documents, books and records of each county office, department, board or
38 commission, or any agency receiving a grant of county funds, or any agency
39 receiving a grant of federal or state funds through the county and for which the
40 county is accountable shall be available to the director of audits at any and all times
41 with or without notice. If so directed by the Judiciary, Safety and General Services
42 Committee or the County Board Chairman, the Director of Audits shall have
43 unimpeded access to any information considered protected under attorney-client
44 privilege or the attorney work-product rule that arises from a claim, action or
45 proceeding where Milwaukee County or a Milwaukee County officer or employee is
46 a party. Every county unit and grantee is to cooperate with the director of audits
47 and comply with all requests for information relating to this function.
48

49 **SECTION 3.** The provisions of these Ordinances shall become effective upon
50 passage and publication.

51

52

53 Judiciary.referral report.10-396.auditor access.ORDINANCE.doc