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May 7, 2024

Via email

Brandon Hunzicker, Staff Attorney
Wisconsin Elections Commission
201 West Washington Avenue
Second Floor
P.O. Box 7984
Madison, WI 53707-7984
brandon.hunzicker@wisconsin.gov
elections@wi.gov

Re: Complaint EL 24-26, Ken Charneski v. Bobbie Birk-LaBarge

Dear Mr. Hunzicker:

This firm serves as the Village Attorney for the Village of Kronenwetter (“Village”). Accompanying this correspondence is a sworn response by the Village Clerk, Bobbie Birk-LaBarge, to the complaint made by the Village Board member Ken Charneski. This letter is to address paragraph number 4 of Charneski’s complaint which appears to be more of a legal question. Namely, Charneski appears to complain that there is not a Village ordinance on election inspector split shifts.

Please note that a clerk has no ability to enact an ordinance. That is instead the job of the Village Board. Charneski, a Village Board member for over six years, fails to address why he has not sought different Village ordinances if that is the nature of his complaint. In any case, the existing Village ordinances related to elections are the following:

§ 41-1. - Election officials.

Election officials shall be appointed as prescribed by Wis. Stats. § 7.30.

§ 41-2. - Hours for voting.

The polls on each election day shall remain open for voting from 7:00 a.m. until 8:00 p.m.

§ 41-3. - Alternates.

The village clerk may appoint alternate election inspectors, as needed, to work at elections held in the village. This includes wards one through eight.

Village Code, available at:

https://library.municode.com/wi/kronenwetter_marathon_co/codes/code_of_ordinances (last viewed May 6, 2024.) Under § 41-3, the Clerk may appoint alternate inspectors “as needed.” This ordinance alone seems to contradict much of the Charneski complaint.

Separately, the Village has Resolution No. 2021-026 establishing election wards (enclosed). The Village has eleven wards at this time (the above ordinances are from 2004 and appear dated). The Wisconsin Department of Administration's 2023 estimate for the Village's population is 8,539.

As addressed in Resolution No. 2021-026 the Village has one combined polling location for all wards. That is the Village Hall, although for some elections voting occurs in multiple rooms therein. The Village also utilizes multiple voting machines per election. Under the statute, these facts are applicable to the appointment of election officials.

(1) Number.

(a) Except as authorized under par. (b), there shall be 7 inspectors for each polling place at each election. Except as authorized in par. (b), in municipalities where voting machines are used, the municipal governing body may reduce the number of inspectors to 5. **A municipal governing body may provide for the appointment of additional inspectors whenever more than one voting machine is used or wards are combined under s. 5.15(6)(b). A municipal governing body may provide by ordinance for the selection of alternate officials or the selection of 2 or more sets of officials to work at different times on election day, and may permit the municipal clerk or board of election commissioners to establish different working hours for different officials assigned to the same polling place. Alternate officials shall also be appointed in a number sufficient to maintain adequate staffing of polling places.** Except for inspectors who are appointed under par. (b) and officials who are appointed without regard to party affiliation under sub. (4) (c), additional officials shall be appointed in such a manner that the total number of officials is an odd number and the predominant party under sub. (2) is represented by one more official than the other party.

Wis. Stat. § 7.30 (emphasis added). Due to the single polling place, and multiple voting machines, the Village can and does appoint additional inspectors as is apparent from Resolution No. 2023-016.

The Village named thirty-two (32) election inspectors in Resolution No. 2023-016 (enclosed), plus two Chief Election Inspectors and one alternate Chief. Resolution No. 2023-016 also states the following:

BE IT FURTHER RESOLVED, that the Village Clerk is directed to schedule working hours for Election Inspector and Chief Election Inspectors accordingly, and

Similar to ordinances, it is a village board that enacts resolutions, not a clerk. Resolution No. 2023-016 authorizes this Village Clerk to schedule the officials. This also seems to contradict much of the Charneski complaint.

Under Wis. Stat. § 7.30(1)(a), the Village may provide by ordinance for the flexible use of adequate officials. The Village addresses this in Code §§ 41-1 and 41-3. In addition, the Village currently has both Resolution No. 2021-026 and Resolution No. 2023-016.

There is no known mandate on the exact structure of a municipality's ordinances and resolutions for election administration as authorized, in part, by Wis. Stat. § 7.30(1)(a). The authorities offered to municipalities under Wis. Stat. § 7.30(1)(a) would further appear to be directory, as opposed to mandatory. *See Teigen v. Wisconsin Elections Commission*, 2022 WI 64, ¶¶ 81, 108, 176, 403 Wis.2d 607, 976 N.W.2d 519 (2022). It could hardly be argued for example that the Village's elections are void due to this structure of ordinances and resolutions. *Id.*

Villages are generally granted power that is to be “in addition to all other grants and shall be limited only by express language.” Wis. Stat. § 61.34(1). In addition:

Construction of powers. For the purpose of giving to villages the largest measure of self-government in accordance with the spirit of article XI, section 3, of the constitution it is hereby declared that this chapter shall be liberally construed in favor of the rights, powers and privileges of villages to promote the general welfare, peace, good order and prosperity of such villages and the inhabitants thereof.

Wis. Stat. § 61.34(5). It is the Village’s own home rule authority that underpins its ordinances and resolutions, some of which are authorized by the election laws. The Charneski complaint paragraph no. 4 seems to be too narrow and conclusory by comparison. *See also, Heritage Farms, Inc. v. Markel Ins. Co.*, 2012 WI 26, ¶¶32 & 36, 339 Wis. 2d 125, 810 N.W.2d 465 (discussing “may” versus “shall”). The statute authorizes that the Village may take certain steps for election inspectors in response to certain facts, such as the number of polling places and election machines, which facts are present in the Village. Wis. Stat. § 7.30(1)(a). Adequate numbers of alternate officials shall be appointed.

Finally, this Village’s election logistics (significant population, large geographic size, and single polling location) tend to create a situation that is difficult to apply to the standard statutory language in Wis. Stat. § 7.30(1)(a). To compound that situation are the elements that are simply out of a clerk’s hands: the level of effort put in by the political parties to create and evaluate their lists; and the actual availability of individual inspectors on election days.

It is unclear that Wis. Stat. § 7.30(1)(a), and other laws, can be read in support of the Charneski complaint paragraph no. 4. We note that much of the “Amendment to March 15 complaint” appears to mostly contain irrelevant personal attacks on the Village Clerk, and we decline to address those types of comments in this forum.

We hope that this information assists the Wisconsin Elections Commission in its consideration of this complaint. The Village is of course willing to follow what guidance you may be able to provide. Please let us know if the Village can do anything more.

Respectfully,
DEMPSEY LAW FIRM, LLP



Lee D. Turonie
Village Attorney

Chapter 41 - ELECTIONS

Footnotes:

--- (1) ---

Cross reference— *Officers and employees, ch. 115; village board, ch. 180.*

§ 41-1. - Election officials.

Election officials shall be appointed as prescribed by Wis. Stats. § 7.30.

(Ord. of 4-12-2004)

§ 41-2. - Hours for voting.

The polls on each election day shall remain open for voting from 7:00 a.m. until 8:00 p.m.

(Ord. of 4-12-2004)

§ 41-3. - Alternates.

The village clerk may appoint alternate election inspectors, as needed, to work at elections held in the village. This includes wards one through eight.

(Ord. of 4-12-2004)

**RESOLUTION No. 2021-026
RESOLUTION CREATING ELECTION
WARDS UNDER SECTION 5.15,
WISCONSIN STATUTES**

WHEREAS, section 5.15, Wisconsin Statutes, provides that each municipality within this state shall be divided into election wards by its Town/Village Board or City Council in accordance with said Section unless its population is less than 1000 and;

WHEREAS, section 5.15, Wisconsin Statutes, provides that the governing body of a municipality must adjust or create its wards within sixty (60) days after the receipt of a tentative supervisory district plan from the county in which the municipality is located, and further that said division must give consideration to the tentative plan submitted by the county board and;

WHEREAS, municipalities must report the establishment of wards to the county clerk within five (5) days of passing of said resolution and the Wisconsin State Legislative Reference Bureau (if population is over 10,000) and;

WHEREAS, section 5.15(6)(b), Wisconsin Statutes, provides that the governing body of a municipality may by resolution combine two (2) or more wards for voting purposes to facilitate using a common polling place.

NOW, THEREFORE, THE TOWN BOARD OF THE VILLAGE OF KRONENWETTER, MARATHON COUNTY, WISCONSIN DOES HERBY RESOLVE:

SECTION 1. That election wards in the Village of Kronenwetter are created as follows under section 5.15, Wisconsin Statutes:

Ward #1 – Population 404. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012042013, 550730012042015, 550730012042017, 550730012042019, 550730012042020, 550730012042028, 550730012042030, 550730012042031, 550730012042032, 550730012042033, 550730012042034, 550730012042038, 550730012042039, 550730012042040, 550730012042041, 550730012042043, 550730012042044, 550730012042045, 550730012042046, 550730012042057, 550730012042058, 550730012042059

Ward #2 – Population 841. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012031046, 550730012031047, 550730012031048, 550730012031049, 550730012031050, 550730012031051, 550730012031052, 550730012031053, 550730012031054, 550730012031055, 550730012031056, 550730012031057, 550730012031058, 550730012043017, 550730012043024, 550730012043025

Ward #3 – Population 865. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012032001, 550730012032002, 550730012032004, 550730012032005, 550730012032006, 550730012032007, 550730012032008, 550730012032009, 550730012032010, 550730012032011, 550730012032012, 550730012032014, 550730012032015, 550730012032016, 550730012032017, 550730012032018, 550730012032019, 550730012032020, 550730012032029, 550730012032030, 550730012032040, 550730012032041

Ward #4 – Population 786. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012032003, 550730012032013, 550730012032023, 550730012032024, 550730012032025, 550730012032026, 550730012032027, 550730012032028, 550730012032031, 550730012032032, 550730012032033, 550730012032034, 550730012032043, 550730012032050, 550730012032051, 550730012042000, 550730012042001, 550730012042002, 550730012042003, 550730012042004, 550730012042005, 550730012042006, 550730012042007, 550730012042008, 550730012042009, 550730012042010, 550730012042011, 550730012042012, 550730012042014, 550730012042016, 550730012042018, 550730012042021, 550730012042022, 550730012042023, 550730012042024, 550730012042025, 550730012042026, 550730012042027, 550730012042029, 550730012042035, 550730012043018, 550730012043020

Ward #5 – Population 860. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012032021, 550730012032022, 550730012032035, 550730012032036, 550730012032037, 550730012032038, 550730012032039, 550730012032042, 550730012032044, 550730012032045, 550730012032046, 550730012032047, 550730012032048, 550730012032049, 550730012032052, 550730012032053, 550730012032054, 550730012032055

Ward #6 – Population 802. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012031019, 550730012031020, 550730012031021, 550730012031022, 550730012031023, 550730012031026, 550730012031032, 550730012031033, 550730012031034, 550730012031035, 550730012031036, 550730012031037, 550730012031038, 550730012031039, 550730012031040, 550730012031042, 550730012031043, 550730012031044

Ward #7 – Population 869. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012031015, 550730012031016, 550730012031017, 550730012031018, 550730012031024, 550730012031025, 550730012031027, 550730012031028, 550730012031029, 550730012031030, 550730012031059, 550730012043003, 550730012043014, 550730012043015, 550730012043016, 550730012043023, 550730012043059

Ward #8 – Population 773. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012031000, 550730012031001, 550730012031002, 550730012031003, 550730012031004, 550730012031005, 550730012031006, 550730012031007, 550730012031008, 550730012031009, 550730012031010, 550730012031011, 550730012031012, 550730012031013, 550730012031014, 550730012031031, 550730012031041, 550730012031045, 550730012043004, 550730012043005, 550730012043006, 550730012043007

Ward #9 – Population 773. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012041000, 550730012041002, 550730012041003, 550730012041006, 550730012041011, 550730012041012, 550730012041046, 550730012041047, 550730012043035, 550730012043036, 550730012043048

Ward #10 – Population 559. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012041013, 550730012042036, 550730012042037, 550730012042042, 550730012042047, 550730012042048, 550730012042049, 550730012042050, 550730012042051, 550730012042053, 550730012042056, 550730012043021, 550730012043022, 550730012043026, 550730012043027, 550730012043028, 550730012043029

Ward #11 – Population 821. All of the following census blocks falling within the corporate limits of the Village of Kronenwetter, Marathon County, Wisconsin:

550730012043000, 550730012043001, 550730012043002, 550730012043008, 550730012043009, 550730012043010, 550730012043011, 550730012043012, 550730012043013, 550730012043030, 550730012043031, 550730012043032, 550730012043033, 550730012043034, 550730012043040, 550730012043041, 550730012043042, 550730012043043, 550730012043044, 550730012043049, 550730012043050, 550730012043051, 550730012043052, 550730012043053, 550730012043054, 550730012043055, 550730012043056, 550730012043057, 550730012043058

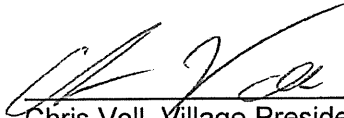
SECTION 2. All wards in the Village of Kronenwetter are combined for reporting election.

SECTION 3. This Resolution shall upon passage and publication become effective for elections after December 31, 2021, provided, however, that implementation of this Resolution is contingent upon approval by the Marathon County Board of Supervisors of a county-wide supervisory district plan based upon the foregoing election wards.

Adopted this 12th day of October, 2021.


VILLAGE OF KRONENWETTER

By:

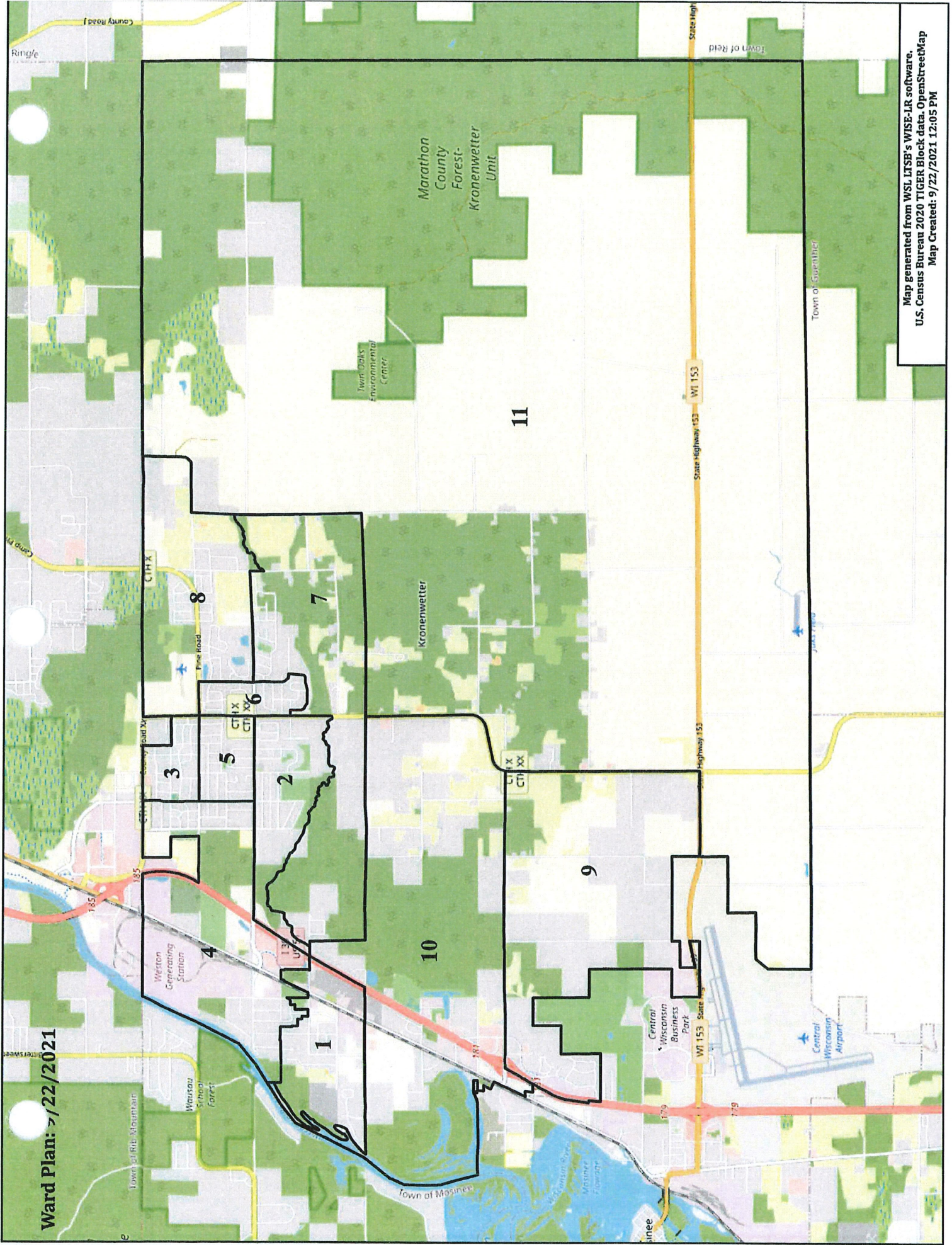

Chris Voll, Village President

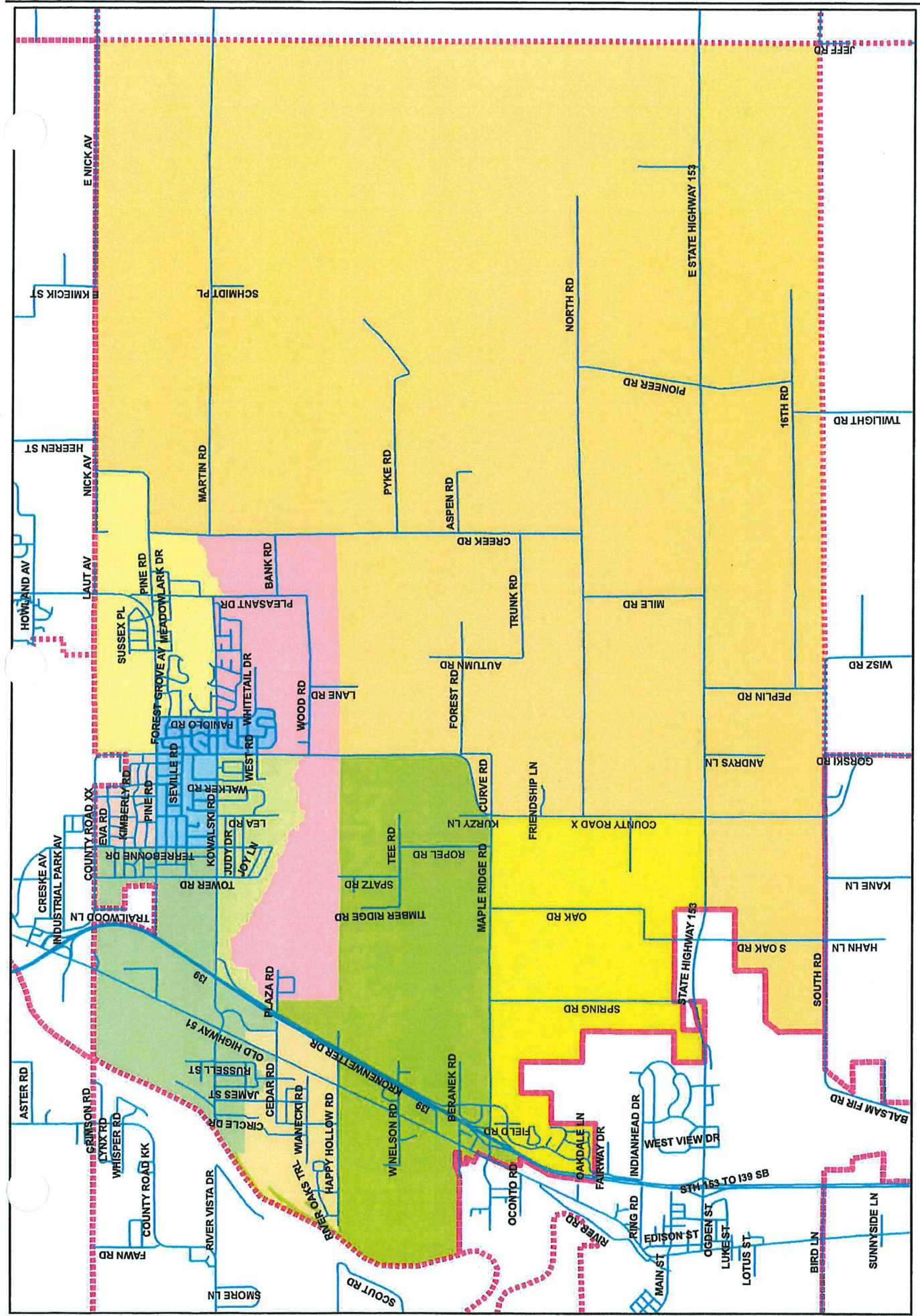
ATTEST:

By:

 10/12/21
Cindra Falkowski, Village Clerk

Ward Plan: 9/22/2021





Map Legend:

- Streets (Blue line)
- Municipal Boundary (Dashed red line)
- Ward 1 = 404 (Light Blue)
- Ward 2 = 841 (Light Green)
- Ward 3 = 865 (Light Yellow)
- Ward 4 = 786 (Light Orange)
- Ward 5 = 860 (Yellow)
- Ward 6 = 802 (Light Green)
- Ward 7 = 869 (Light Yellow)
- Ward 8 = 773 (Light Orange)
- Ward 9 = 773 (Light Orange)
- Ward 10 = 559 (Light Green)
- Ward 11 = 821 (Light Yellow)

VILLAGE OF KRONENWETTER TENTATIVE 2021 WARDS

Map Date: 9/22/2021

RESOLUTION NO. 2023-016
VILLAGE OF KRONENWETTER
MARATHON COUNTY, WISCONSIN

A RESOLUTION APPOINTING 2024-2025 ELECTION
INSPECTORS

RECITALS:

WHEREAS, Wisconsin Statutes provide for the appointment of Election Inspectors and Special Voting Deputies by municipalities between December 1 and December 31 of each odd-numbered year for a two-year term, and

WHEREAS, terms of current Election Inspectors Will expire on December 31, 2023; and

WHEREAS, Section 7.30(4) of the Wisconsin Statutes allows the two dominant parties to submit a list of names from which appointments shall be made; and

WHEREAS, the Marathon County Republican and Democratic Parties have submitted a list of names for appointment; and

NOW, THEREFORE, BE IT RESOLVED, that the Village Board of the Village of Kronenwetter hereby appoints the following individuals representing republican, democratic and unaffiliated Election Inspectors for a two-year term which will run from January 1, 2024 to December 31, 2025:

- | | |
|------------------------|----------------------|
| 1. CHRIS JOHN | |
| 2. MARY JOHN | |
| 3. KATHRYN PALMER | 20. AMY KRALIKOWSKI |
| 4. CYNTHIA SCHAEFER | 21. SANDY LEE |
| 5. ABBY WALLIS | 22. CHET RUCINSKI |
| 6. CINDRA FALKOWSKI | 23. DONNA RULE |
| 7. ARIEL SCHEFTGEN | 24. KEVIN SHULFER |
| 8. TESIA WALLER | 25. JENNIFER SMITH |
| 9. DENNIS MUELLER | 26. JAMIE STUEDEMANN |
| 10. RITA YAEGER | 27. LINDA TALBERT |
| 11. KAREN TALLITSCH | 28. PATTY TIKALSKY |
| 12. LAURIE SAZAMA | 29. BILL UDULUTUCH |
| 13. VICKI COLEMAN | 30. LUCENE UDULUTUCH |
| 14. JUDI AKEY | 31. JULIE WALDVOGEL |
| 15. LORENE BALTZ | 32. JAMES WY SOCKI |
| 16. TERRI EBERHARDY | |
| 17. STEPHANIE FERGUSON | |
| 18. GARY GOYTOWSKI | |
| 19. LAVONNE GOYTOWSKI | |

WHEREAS, the Marathon County Republican Party submitted a list of names for appointment; and the following names have notified the clerk via email and/or phone, they do not wish to be included in the 2024-2025 election inspector appointment list: Daniel Joling, Cheryl A. Kempe, and Mark Hoffinan; and

BE IT FURTHER RESOLVED, that Marie Traska and Mary Ventzke be designated as Chief Election Inspectors with Cynthia Aucutt as alternate; and will hold said position for the election cycle unless removed by the clerk or the inspector(s) ceases to be certified under s. 7.31; and

BE IT FURTHER RESOLVED, that each election inspector(s) has agreed to serve at every election during their term of office; and

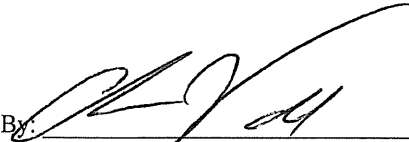
BE IT FURTHER RESOLVED, if any appointed election official lacks the qualifications, fails to attend required training sessions required under s. 7.15(1)(e) unless excused or is guilty of neglecting his or her official duties or commits official misconduct, the clerk or board of election commissioners shall summarily remove the official from office and the vacancy be filled by the clerk; and

BE IT FURTHER RESOLVED, that the Village Clerk is directed to schedule working hours for Election Inspectors and Chief Election Inspectors accordingly; and

BE IT FURTHER RESOLVED, that the Village Clerk is authorized as the special voting Deputy as needed; and

BE IT FURTHER RESOLVED, that the election-day registrations will be conducted in the same building as the polling place.

This Resolution was adopted by the Village of Kronenwetter Board of Trustees on the 11th day of December, 2023.

By: 
Village Board President; Chris Voll

Attest: 
Village Clerk; Bobbi Birk-LaBarge