



DEMPSEY LAW

OFFICES:
Black River Falls
De Pere
Fond du Lac
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Wausau

April 9, 2025

Via email

Chris Voll, Village President
Village of Kronenwetter
1582 Kronenwetter Drive
Kronenwetter, Wisconsin 54455
cvoll@kronenwetter.org

RE: Board Report for 4/14/25
Extension of Polling Hours

Dear President Voll:

As you are aware, this firm serves as the Village Attorney. We discussed providing this submittal to the Village Board to provide some background information on the extension of the Village's polling hours that occurred for the April 1, 2025 election. Not least that the Village Attorney played no role in this extension and was not aware of it as it happened as is documented below. The Village Clerk has separately documented election day events (enclosed).

I was aware that there were issues with the voting equipment (the Badger Books, an electronic poll book). I stood in line to vote along with many others from approximately 7:00 a.m. to 8:00 a.m. The Village Clerk and election inspectors were dutifully trouble-shooting the equipment. I spent most of that time third in a line and observed this happening. Being Village Attorney, I became concerned that it was possible that I would need to petition a court on behalf of the Village to extend the polling hours if the problems continued. *See* Wis. Stat. §§ 6.78 & 6.96.

It was known to me that the Wisconsin Elections Commission has information and templates for use to pursue an extension on its website, located at: <https://elections.wi.gov/memo/court-document-templates-extension-polling-hours> (last viewed 4/8/25 at 10:04 a.m.). My understanding is that this process usually involves a petition by the Village supported by an affidavit by the municipal clerk attesting to the conditions at the polling place in support of an extension. The municipal clerk "has charge and supervision of elections and registration in the municipality" and performs related duties accordingly. Wis. Stat. §§ 7.15(1) & 61.25(1).

After finally voting, I did speak to the deputy clerk and asked her to let me know as soon as possible if problems continued such that we might have to petition a court for an extension. The deputy clerk related that the Village had the option to switch to paper poll books and would do that if necessary. I then left and contacted President Voll to make him aware of what I had seen and discussed. I heard nothing further regarding the election until that evening, when President Voll contacted me after he learned that the polling hours had been extended.

President Voll and I then made efforts to verify the extension and to make contact with the Village Clerk to ensure that affected ballots would be marked as required by law. With both of us having been unaware of the extension, we were unsure who, if anyone, had been advising the Village Clerk.

I later learned that during the afternoon of April 1, 2025, the Marathon County Clerk had adversely sued the Village to achieve a one-hour extension of the polling hours at the Village: Marathon County case no. 25-CV-216, *Marathon County Clerk vs. Village of Kronenwetter*. This was filed as a petition for a writ of mandamus. (See CCAP summary, enclosed.) Contrary to the certificate of service on the petition (enclosed, Doc. 2) nothing had been served on the Village except for the signed final order after the court hearing had already been held (enclosed, Doc. 4).

For legal background, mandamus is “an extraordinary legal remedy, available only to parties that can show that the writ is based on a clear, specific legal right which is free from substantial doubt.” *Lake Bluff Housing Partners v. City of South Milwaukee*, 197 Wis. 2d 157, 170, 540 N.W.2d 189, 194 (1995). Mandamus will not lie unless the duty sought to be enforced is “clear and unequivocal and not discretionary.” *State v. Hunkins*, 120 Wis. 2d 86, 88, 352 N.W.2d 220, 221 (1984). A discretionary act involves the exercise of judgment in the application of a rule to specific facts. *Willow Creek Ranch, L.L.C. v. Town of Shelby*, 2000 WI 56, ¶ 25, 235 Wis. 2d 409, 425, 611 N.W.2d 693, 700.

I have since spoken with the Marathon County Corporation Counsel about the need for better communications. He was receptive to that and it is appreciated. However, there remain several questions that the Village might follow up with the Plaintiff in case no. 25-CV-216, since the County Clerk would be perhaps the only knowledgeable person:

1. Why adversely sue the Village to extend the hours at the polling place?
2. What duty relative to mandamus, if anything, had the Village Clerk refused to do?
3. Why not allow the Village Clerk to decide whether to extend the hours and petition a court on behalf of the Village?
4. How many calls and by whom to the County Clerk prompted this course of action?
5. How was one hour determined to be the appropriate amount of extended time?
6. Was the Village Clerk ever advised to contact the Village Attorney, or anyone else?
7. The court clerk’s case notes state “No objections from Village of Kronenwetter.” What is the basis of that note?
8. Did the County Clerk visit the polling place?
9. Were the results that were achieved what the County Clerk expected?
10. Does the County Clerk intend to let the Court’s order stand as is?

Hopefully this helps document the matter and can help lead to future improvements. Thank you.

Sincerely,
DEMPSEY LAW FIRM, LLP



Lee D. Turonie
Village Attorney

Enclosure(s)

April 1, 2025 Spring Election Rundown

Prepared by Jennifer Poyer

Friday, March 28, 2025— Seven Badger Books (one server and six clients); printers; keyboards and mice to be used for the April 1, 2025 election run through testing procedure. All machines were in good order.

*The Badger Books have been used since 2023, with little to no problems. They are not connected to the internet, but use a local server and router to connect and share voter check-in information. After the election, voter participation information is downloaded from the server and uploaded to Wisconsin Election Commission's website, WisVote. Before each election, a test is conducted to rule out any glitches, etc.

Sunday, March 30, 2025 – Election set-up takes place. Badger Books were moved into position at the polling place. Four were being used for voter check-in and two were designated for absentee voter check-in. The server and router were set up in the kitchen area per usual.

Monday, March 31, 2025 – Final election set-up. The Spring Election poll book information was uploaded from WisVote and downloaded to the Badger Book server. The Badger Book clients were tested as to whether the Spring Election information was received. All the machines were in good order.

Tuesday, April 1, 2025 – Polls were opened on the Badger Book server at 7 a.m. Election workers logged on to the client Badger Books and voter check-in was initiated. The Badger Books were working very slowly. Error messages regarding reaching the server continued to pop-up during the voter check-in process.

Also, a barrage of voters arrived at 7 a.m., so the slow Badger Books paired with the large amount of voters created a difficult situation.

Each Badger Book was monitored. Each book was restarted.

7:20 a.m. – The two Badger Books designated for absentee voters were turned off in hopes it would alleviate overuse of the server and router. The change did not help.

Continued trying to troubleshoot the situation, including moving power cords and router.

7:45 a.m. -Contacted Wisconsin Elections Commission and talked with a Badger Book pro. He said running six clients on one server should not be a problem. Also, he said our distance to the router and server would not create a problem.

He suggested resetting the server. Reset was completed. It made no difference to the speed of the Badger Books.

WEC was contacted again. They suggested gathering the login files from the c-drives of the Badger Books. This information was collected and sent to WEC. They suggested completely turning off all the Badger Books and starting the process again.

In order for the start-process to be initiated, it was planned for election inspectors to use printed poll books instead of the Badger Books while they were reset. Per election rules, there must be printed poll books on hand for these situations. We had one printed poll book for wards 1-5 and one printed poll book for wards 6-11. Two additional printed poll books were printed for each ward group.

9:15 a.m. – It was announced to the election chiefs and inspectors that we were going to use the printed poll books and completely turn off the Badger Books so the reset could occur. The election workers made the transition very quickly. This greatly decreased voting time and lines were quickly alleviated.

The Badger Books were all powered down and the set-up process was initiated once again. This made no difference to the Badger Book clients. They were again running slow and still receiving error messages.

9:45 a.m. - I returned a call to County Clerk Kim Trueblood. (She had received 4 calls from voters about leaving the polls because the process was delayed.) The situation was explained and she was informed that the last resort would be switching out the router, but this would require resetting all the Badger Books to the new router. She advised to finish the day using the paper poll books and troubleshooting the problem following the election.

Her advice was taken and additional poll books were printed to facilitate the voting process. At the end of the day, there were three poll books for wards 1-5 and five poll books for wards 6-11.

10:00 a.m. – it was announced to the election chiefs and inspectors that we would be using printed poll books for the rest of the day. The Badger Books were removed from the polling place (Community Room) and the room configurations were changed to accommodate the new process. Voters were routed to two different areas based on their assigned wards.

10:15 a.m. - County Clerk Kim Trueblood was called and updated on the situation. She mentioned the possible hour extension. This possibility was agreed upon and announced to our election workers.

Evening -The Village was served with the approved petition regarding the extended hours by a Marathon County Sheriff's deputy.

A press release issued by Marathon County was distributed on social media and to the media outlets regarding the extension.

The extension was announced to our election chiefs and inspectors. They extended their working hours to accommodate the change.

8-9 p.m. - All the ballots that were received from voters arriving at 8 p.m. to 9 p.m. were marked by election inspectors with "per court order." There were a total of 15 voters during this extended hour, six from wards 1-5 and nine from wards 6-11.

The polls were officially closed at 9 p.m. and election canvassing took place.

Ballots were removed from the machines. Ballots voted during the extended hour were sorted from the regular Election Day ballots. All of the ballots were placed in plastic ballot bags provided by the county. They were kept on a cart in the locked Municipal Center and clerk's office for transport to the county the following day.

10:30 p.m. - The DS-200 modems were unable to transmit the results to the county offices, so the election sticks had to be transported to the county.

Wednesday, April 2, 2025 – Printed poll books copied, election items copied and gathered and delivered along with the ballots to Marathon County. Mosinee School District and DC Everest School District received the necessary election items for reconciliation.

Marathon County Case Number 2025CV000216 Marathon County Clerk
vs. Village of Kronenwetter

Case summary

Filing date 04-01-2025	Case type Civil	Case status Closed - Electronic filing
Class code description Petition for Writ of Mandamus	Responsible official Moran, Michael K.	Branch ID 5

Party summary

Party type	Party name	Party status
Plaintiff	Marathon County Clerk	
Defendant	Village of Kronenwetter	

Parties

Plaintiff: Marathon County Clerk

Date of birth	Sex	Race
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Address (last updated 04-01-2025)
500 Forest Street, Wausau, WI 54403 US

Attorneys

Attorney name	Guardian ad litem	Entered
Puerner, Mike	No	04-01-2025

Defendant: Village of Kronenwetter

Date of birth	Sex	Race
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Address (last updated 04-01-2025)
1582 Kronenwetter Drive, Kronenwetter, WI 54455 US

Court record

Date	Event	Court official	Court reporter	Amount
04-01-2025	Petition granted	Moran, Michael K.		
04-01-2025	Order	Moran, Michael K.		

Date	Event	Court official	Court reporter	Amount
	Additional text: Order for Extension of Voting Hours in the Village of Kronenwetter			
04-01-2025	Hearing	Moran, Michael K.	Ladewig, Amanda	
	Additional text: Clerk: Amanda. Case called at 3:40 pm. Marathon Co appears by Attorney Mike Puerner on behalf of Clerk Kim Trublood, also present in person. Hearing on Petition for Extension of voting hours; Attorney Puerner recites basis for Petition and requests an additional hour for voting. No objections from Village of Kronenwetter. Court makes findings; Court GRANTS an hour extension and makes further findings. Court signs Order. Adj: 3:45 pm.			
04-01-2025	Proposed Order			
	Additional text: re Order for Extension of Voting Hours in the Village of Kronenwetter			
04-01-2025	Filing fee paid			\$164.50
	Additional text: Adjustment Number: 25A 074703, Payable Number: 310772, Receipt Number: 25R 001921P, Amount: \$164.50			
04-01-2025	Case initiated by electronic filing			
04-01-2025	Petition			
	Additional text: Petition for Extension of Voting Hours in the Village of Kronenwetter			

FILED

Section 5, Item H.

04-01-2025

CLERK OF CIRCUIT
COURTMARATHON COUNTY
2025CV000216Honorable Michael K.
Moran

Branch 5

**IN THE MARATHON CIRCUIT COURT
MARATHON COUNTY, WISCONSIN**

PETITION OF KIM TRUEBLOOD, IN
HER CAPACITY AS COUNTY CLERK
OF MARATHON COUNTY,

Case No. _____

**PETITION FOR EXTENSION OF
VOTING HOURS IN THE VILLAGE OF
KRONENWETTER**

**EXPEDITED CONSIDERATION
REQUESTED**

Petitioner the Marathon County Clerk hereby moves pursuant to Wis. Stat. §783.01 for a writ of mandamus to extend the polling hours at Kronenwetter Municipal Center, 1582 Kronenwetter Drive, Kronenwetter, Wisconsin polling location in the Village of Kronenwetter in Marathon County ("Polling Place") and, if necessary, a temporary and permanent injunction pursuant to Wis. Stat. §§ 813.02, 813.05, and 813.08, enjoining the Village of Kronenwetter from closing the Polling Place until 9:00 p.m. on Tuesday, April 1, 2025.

INTRODUCTION

The State of Wisconsin is in the midst of conducting the 2025 spring general election ("Election"). This morning, the Polling Place experienced technical difficulties that frustrated the Wisconsin Legislature's intent to have polling locations open for thirteen hours of voting on Election Day. These difficulties led to substantial burdens on voters that threaten to disenfranchise

individuals required to cast their ballots there. The only available remedy to give effect to the legislature's 13-hour open polling location requirements and to avoid voters at that Polling Place from being disenfranchised is to extend the voting hours at that Polling Place and allow individuals who arrive there before 9:00 P.M. to vote. Plaintiffs therefore respectfully request the Court issue a writ of mandamus to the Village of Kronenwetter Clerk requiring the Polling Place to remain open until 9:00 p.m. on Tuesday, April 1, 2025, and/or to issue either a temporary or permanent injunction to that effect if a further hearing is required.

FACTS

The voters who reside in the wards serviced by the Polling Place are permitted to cast ballots for the office of Wisconsin Supreme Court Justice, among other offices on the ballot.

On April 1, 2025, several actions and events occurred at the location designated for voting for Wards 1-11 such that Defendants have not given effect to the legislature's requirement of thirteen hours of voting on Election Day in compliance with the requirements of Wisconsin law:

- Voters were waiting in long lines due to issues with Badger Books, electronic polling books utilized at the Polling Place. At or around 7 a.m., these Badger Books lost functionality due to an apparent router error and caused significant delays at the Polling Place as a result. There were two lines of voters at the Polling Place prior to 10 a.m. that were at a standstill.

- Although voters were in line and waiting to vote, due to the lines not moving at all for a significant period, a number of voters gave up and left the Polling Place. Some of the voters had the impression that the voting process was not continuing or was at least going to be significantly delayed. The hours affected were hours typically associated with individuals seeking to vote prior to beginning the work day.

- The Village Clerk encouraged the Polling Place to switch to paper poll books;

however, this change was not made at the Polling Place until 10 a.m. From 7 a.m. until approximately 10 a.m., voting was significantly delayed at the Polling Place, voters left the Polling Place, and/or voters' ability to invoke their right to vote were significantly harmed due to the issues caused by improperly functioning badger books.

ARGUMENT

Standard for a Writ of Mandamus

A trial court must issue a writ of mandamus if the petitioner shows “(1) a clear legal right; (2) a positive and plain duty; (3) substantial damages; and (4) no other adequate remedy at law.” *Law Enfor. Stds. Bd. v. Lyndon Station*, 101 Wis. 2d 472, 494 (1981).

Petitioner is Entitled to a Writ of Mandamus

In this case, the four elements entitling Petitioner to a writ of mandamus are satisfied.

First, Petitioner has “a clear legal right” to demand adherence to Wisconsin election laws and to challenge elections officials when they violate those laws. *McCarthy v. Elecs. Bd.*, 166 Wis. 2d 481, 484 (1992) (granting writ of mandamus in election law case); *State ex rel. Stokes v. Brunner*, 120 Ohio St. 3d 250, 256, 898 N.E.2d 23 (2008) (granting “a writ of mandamus to compel the secretary of state” to remedy ongoing violation of state election law); Wis. Stat. § 59.23(2)(i) (The County Clerk is the “chief election officer of the county.”)

The right to vote is “regarded as a fundamental political right, because [it is] preservative of all other rights.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). The right to vote is protected by both the federal constitution and the Wisconsin constitution. See Wis. Const. art. III, § 1 (all adult United States citizens and residents of a district within Wisconsin can vote in that district); *see also* Wis. Const. art. I, § 1 (equal protection and due process).

To effectuate the right to vote, the Wisconsin Legislature has designated thirteen hours of continuous polling place operations on Election Day: 7:00 A.M. through 8:00 P.M. Wis. Stat. § 6.78. Everyone waiting in line when the polls close at 8:00 P.M. may cast a ballot. *Id.*

Wisconsin courts “attempt to identify and effectuate the legislature’s intent when we interpret a statute.” *Guelig v. Guelig*, 2005 WI App 212, ¶ 24, 287 Wis. 2d 472, 489, 704 N.W.2d 916, 924. The plain text of Section 6.78 conveys that its thrust is to ensure a continuous period of thirteen hours on Election Day during which qualified electors may obtain, complete and cast a ballot. A polling location that is nominally accessible but significantly debilitated by voting equipment not operating, electronic poll lists not operating, or inadequate procedures, is not “open” within the meaning of Section 6.78.

As mentioned above, numerous properly registered and duly qualified voters left the Polling Place after waiting without having the opportunity to cast a vote. Many individuals who were available and entitled to vote on Election Day at the Polling Place were not able to wait in line longer in order to vote. To provide voters at least the 13 hours of open polls in compliance with the other requirements of Wisconsin law, it is necessary that the polls remain open after 8 P.M. for an additional 60 minutes, or until 9:00 P.M.

The clear, fundamental right to vote of individuals required to cast their ballots at the Polling Place has been substantially and unjustifiably burdened, and many voters risk being effectively disenfranchised as a result, which would cause irreparable injury to the voters themselves as well as to the candidates for whom they would have voted. This conduct violated Wis. Stat. § 6.78.

Second, voters will incur “substantial damages” if the writ is not issued. *Id.* Specifically, without a writ of mandamus, voters’ right to vote and to have the election conducted without undue

burdens on the elective franchise in the Village will be violated. If those rights are violated on Election Day, the damage cannot be undone. Likewise, it is the Village Clerk's obligation to ensure that the election administration at the Polling Place complies with applicable law and does not result in disenfranchisement to voters.

Finally, the aforementioned damages are ones for which Petitioner has “no other adequate remedy at law.” Infringement of fundamental constitutional freedoms such as the right to vote, “for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *see also Perry v. Judd*, 840 F. Supp. 2d 945, 960 (E.D. Va. 2012) (“[The Petitioners] are presidential candidates, and in the absence of preliminary relief, they will have no chance to secure the delegates from Virginia at the Republican convention. The harm to them would obviously be irreparable.”); *Treasurer of Comm. to Elect Gerald D. Lostracco v. Fox*, 389 N.W.2d 446 (Mich. App. 1986) (finding irreparable injury where an imminent election rendered any legal remedy inadequate).

Both the United States Supreme Court and the Wisconsin Supreme Court have recognized that the right to vote is a “fundamental political right” that is “preservative of all rights.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886); *State ex rel. La Follette v. Democratic Party*, 93 Wis. 2d 473, 518 (discussing *Yick Wo* and “the right to vote as a fundamental political right”) (internal quotation marks omitted), *rev'd on other grounds*, 450 U.S. 107 (1981). This right extends not only to “the initial allocation of the franchise,” but also to “the manner of its exercise.” *Bush v. Gore*, 531 U.S. 98, 104 (2000). Because voting is ongoing, the harm to voters and Petitioner is immediate, and cannot be remedied by monetary relief. Thus, only this Court can prevent immediate and irreparable injury.

CONCLUSION

For these reasons, Petitioner respectfully ask that this Court issue a writ of mandamus requiring Respondents to writ of mandamus to extend the polling hours at the Kronenwetter Municipal Building in Marathon County to 9:00 PM on April 1, 2025.

The contents of this Petition are true and accurate to the best of my knowledge:

April 1, 2025
DATE

Kim Trueblood
KIM TRUEBLOOD

SIGNED AND SWORN TO ME THIS 1ST DAY OF APRIL, 2025:


Michael Puerner
State Bar No. 1070406
Notary Public, State of Wisconsin
My appointment is permanent.

MICHAEL J. PUERNER
Notary Public
State of Wisconsin

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of April, 2025, I did cause a true and correct copy of the Verified Petition, the attached Affidavit, and the Proposed Order, to be served via hand delivery to:

Jennifer Poyer
Kronenwetter Village Hall
1582 Kronenwetter Drive
Kronenwetter, WI 54455

and via hand delivery upon:

Chief Election Inspector
Kronenwetter Municipal Center
1582 Kronenwetter Drive
Kronenwetter, WI 54455