HEALTH AND HUMAN SERVICES COMMITTEE

MEETING AGENDA

Date & Time of Meeting: **Monday, April 10, 2017 at 4:30 p.m.**
Meeting Location: **Courthouse Assembly Room B-105, 500 Forest St, Wausau, WI**

Health & Human Services Committee Members: Matt Bootz, Chair, John Robinson, Vice-chair, Bill Miller; Orval Quamme; Katie Rosenberg, Maynard Tremelling, Dave Wysong

Marathon County Mission Statement: *Marathon County Government serves people by leading, coordinating, and providing county, regional, and statewide initiatives. It directly or in cooperation with other public and private partners provides services and creates opportunities that make Marathon County and the surrounding area a preferred place to live, work, visit, and do business. (Last updated: 12-20-05)*
Health & Human Services Committee Mission Statement: *Provide leadership for the implementation of the strategic plan, monitoring outcomes, reviewing and recommending to the County Board policies related to health and human services initiatives of Marathon County.*

1. **Call Meeting to Order**
2. **Public Comment (15 minute limit)**
3. **Approval of the February 6, March 14, and March 20, 2017 Minutes**
4. **Educational Presentations/Outcome Monitoring Reports**
   A. County's Fair Housing Ordinance (Rick Seefeldt)
   B. Progress on the Mount View Care Center Committee Including Clifton Larson Allen, LLP (CLA) to do an Operational Analysis and Strategic Planning
5. **Policy Issues Discussion and Committee Determination to the County Board for its Consideration**
   A. Board of Health Request for a Board Member to attend WPHA-WALHDAB 2017 Annual Conference on May 23-25, 2017 in Wisconsin Dells, WI
   B. Amend the Marathon County Social Host Ordinance
   C. What do we want to Recommend to the County Board with Regard to the Future of Aquatic Therapy?
6. **Next Meeting Logistics and Topics:**
   A. Committee members are asked to bring ideas for future discussion
   B. Next Scheduled Meeting: Tuesday, May 2, 2017 at 7:00 p.m. – Informational meeting
   Monday, May 8, 2017 at 4:30 p.m. – Regular meeting
7. **Announcements**
8. **Adjournment**

"***Any person planning to attend this meeting who needs some type of special accommodation in order to participate should call the County Clerk's Office at 715-261-1500 or e-mail infomarathon@mail.co.marathon.wi.us one business day before the meeting.***

SIGNED /s/ Matt Bootz
Presiding Officer or Designee

FAXED TO:	Wausau Daily Herald, City Pages, and	NOTICE POSTED AT COURTHOUSE	
FAXED TO:	Other Media Groups		
FAXED BY:	M. Palmer	BY:	M.. Palmer
FAXED DATE:		DATE:	
FAXED TIME:		TIME:	

MARATHON COUNTY HEALTH AND HUMAN SERVICES COMMITTEE MEETING

MINUTES
Monday, February 6, 2017 – 4:30 p.m.
Assembly Room, (B-105) Courthouse, 500 Forest St., Wausau WI 54403

Attendance:

	Present	Absent
Matt Bootz, Chair	X	
John Robinson, Vice Chair	X	
Bill Miller		EX
Orval Quamme		X
Katie Rosenberg	X	
Maynard Tremelling	X	
Dave Wysong	X	

Also Present: Brad Karger, Brian Kowalski, Lee Peek, Mary Ann Dykes, Brenda Budnik, Michael Loy, Steve Anderson, Mary Palmer

1. **Call Meeting to Order**
   The Health & Human Services meeting was called to order at 4:30 p.m. by Chair Bootz

2. Public Comment - None

3. **Approval of the December 19, 2016 and January 16, 2017 Minutes**
   MOTION BY ROBINSON; SECOND BY ROSENBERG TO APPROVE THE DECEMBER 19, 2016, and JANUARY 16, 2017 MEETING MINUTES. MOTOIN CARRIED.

4. **Educational Presentations/Outcome Monitoring Reports** - None

5. **Policy Issues Discussion and Committee Determination to the County Board for its Consideration**
   A. Approval for Up to Two Social Services Board Members Attendance at the Wisconsin County Human Services Association (WCHSA) Conferences in May and December Each Year

Discussion

The cost for two Social Services Board members to attend the conference is approximately $200. According to County Board rules the request must come to the committee of jurisdiction.

Action:

MOTION BY BOOTZ; SECOND BY ROBINSON TO APPROVE UP TO TWO SOCIAL SERVICES BOARD MEMBERS TO ATTEND THE SPRING AND FALL CONFERENCES ON AN ONGOING BASIS. MOTION CARRIED

Follow through:

No follow through needed.

B. Build a Set of Questions we will be Prepared to Answer for the County Board on the Aquatic Therapy Pool

Discussion

Brad Karger, County Administrator, went through a list of questions that was prepared prior to the meeting and is asking for additional information needed.

How many current users are there and what's the trend and frequency?
What services are provided?
Would a private entity create this kind of service?
What's been done in the past in Marathon County, has there been success and why/or why not?
How could it benefit other programs?

Cost:

What if, any, are we getting back relating to reimbursements?
What operating unit are you using and what's the cost?

Structure:
What is the best structure?

Action:

MOTION BY ROSENBERG; SECOND BY ROBINSON TO ACCEPT THE LIST WITH CHANGES. MOTION CARRIED.

Follow through:

The list of questions will be taken to County Board for their input.

C. Update on the Retained County Authority's (RCA) First Meeting and Plan for Future Meetings

Discussion

Supervisor E.J. Start has declined being a member of the RCA. County Administrator Brad Karger and County Board Chair Kurt Gibbs will work to find a replacement for Supervisor Stark. The first meeting went well, meetings have been set for the year, RCA;s plan of work started with the bylaws and the budget will be addressed soon.

Action:

No action taken.

Follow through:

No follow through needed.

D. Review the Nursing Home Request for Proposal so that Committee Members can Better Understand the Goals and Timetable.

Discussion

Before a decision can be made on Mount View Care Center (MVCC) a Strategic Plan and an Operational Assessment of what we are doing now needs to be completed. We have to do both. A request for proposal (RFP) for this information has been released. This will be one of the most, if not the most, important decision made in 2017.

Action:

MOTION BY ROSENBERG; SECOND BY WYSONG TO RECEIVE AND PLACE ON FILE THE REQUEST FOR PROPOSAL FOR CONSULTING SERVICES TO DEVELOP A STRATEGIC PLAN FOR MUNT VIEW CARE CENTER AND REVIEW OPERATIONAL PERFORMANCE AND SERVICE DELIVERY NEEDS. MOTION CARRIED.

Follow through:

An update on MVCC will be on upcoming agendas.

6. **Next Meeting Logistics and Topics:**
   A. Committee members are asked to bring ideas for future discussion
   Review Nursing Home
   Update on state budget relating to Health & Human Services

   B. Next Scheduled Meetings: Tuesday, March 14, 2017 at 7:00 p.m. Questions on the pool will be discussed with the experts - (Informational)
   Monday, March 20, 2017 at 4:30 p.m. public comment at NCHC – in the theater (Regular)

7. **Announcements** – WCA North Central Regional District 1-4 Wednesday, March 15 review and provide input to legislators at Keshena.

8. **Adjournment**
   There being no further business to discuss, **MOTION BY ROBINSON; SECOND BY WYSONG; TO ADJOURN THE HEALTH & HUMAN SERVICES COMMITTEE MEETING. MOTION CARRIED.** Meeting adjourned at 5:01 p.m.

Respectfully Submitted by:
Mary Palmer

MARATHON COUNTY HEALTH AND HUMAN SERVICES COMMITTEE MEETING

MINUTES
Tuesday, March 14, 2017 – 7:00 p.m.
Assembly Room, (B-105) Courthouse, 500 Forest St., Wausau WI 54403

Attendance:

	Present	Absent
Matt Bootz, Chair	X	
John Robinson, Vice Chair	X	
Bill Miller	X	
Orval Quamme	X	
Katie Rosenberg	X	
Maynard Tremelling	X	
Dave Wysong	X	

Other Board Members Present: Jeff Zriny, Kurt Kluck, John Durham, Craig McEwen, Gary Beastrom, E.J. Stark
Staff Present: Brad Karger, Scott Corbett, Lance Leonhard, Laura Scudiere, Dan Hoenecke, Gerry Klein
Panel of Experts Present: Brenda Glodowski, Tom Schaffer, Duane Proell, Dr. Kris Ferguson, Sarah McCarthy, Terry Kaiser, Steve Anderson, Brad Beilke, Dr. Mark Schuler, Dr. Adam Tuttle

Additionally there was a large number of Marathon County residents present. Their names were not recorded. They were advised prior to the meeting by Chair Matt Bootz that their role would be limited to observers, but on Monday their opinions and any new information they can provide on the aquatic therapy will be actively sought at a special meeting dedicated exclusively to public comment.

1. **Call Meeting to Order**
   The Health & Human Services meeting was called to order at 7:00 p.m. by Vice-Chair Robinson

2. **Public Comment** - None, as the next committee meeting will be devoted entirely to public comment regarding the future of the aquatic therapy pool.

3. **Approval of the January 31, 2017, Information Committee Meeting Minutes**
   MOTION BY ROBINSON, SECOND BY ROSENBERG TO APPROVE THE MINUTES OF THE JANUARY 31, 2017 MEETING. MOTION CARRIED.

4. **Educational Presentations/Outcome Monitoring Reports**
   A. Panel of Experts to help the Committee Answer the Questions the County Board has Regarding the Aquatic Therapy Pool

Discussion

Panel to Include:

- Thomas Schaffer, President, U.S. Aquatics
- Brenda Glodowski, NCHC, CFO
- Dr. Chris Ferguson, M.D., Referring Physician, Advance Pain Management
- Terry Kaiser, Facility Maintenance Supervisor
- Steve Anderson, Retired President, River Valley Bank
- Brad Beilke, NCHC Physical Therapist
- Dr. Mark Schuler, Physical Medicine & Rehabilitation
- Dr. Adam Tuttle, Aspirus Spine & Neuroscience

A panel of experts made individual presentations. Their comments are recorded in relation to the questions that the Health and Human Services Committee has been asked to answer to the

County Board:

1. **Brenda Glodowski, NCHC CFO:**
   - Gave a history of the aquatic therapy pool since it was built in 1977
   - Summarized the complicated array of fees charged for aquatic therapy (Medicare $101; Medicaid $89; all different rates for private insurance and some simply follow the Medicare rates)
   - In 2016, 1,400 people utilized the Aquatic Therapy Pool.
   - In 2016 with all the overhead and indirect costs attributed to the operating costs the pool ran a deficit of just less than $100,000

2. **Thomas Schaffer, US Aquatics**
   - Summarized the final report of his final study which is contained in the information packet provided to the Committee in advance of the meeting.
   - Assessment confirmed that the current pool was near the end of its life and needs to be replaced
   - The rectangular pool option will cost 5.7 million dollars to build plus an additional cost to decommission the current pool. The cost of decommissioning will depend upon what the County intends to use that space for in the future (Cost figures are a year old – estimate a 5% inflationary price increase.)

3. **Duane Proell, US Aquatics**
   - New pool will have a $76,607 operational deficit the first year of operation
   - By the 5th year of operation the pool deficit will shrink to $55,577
   - Estimates incorporate savings from water saving (600,000 gallons to 10,000 gallons) and energy conservation also assumes installation of the most energy efficient pool equipment and heating-cooling systems available. (Electrical costs down 50%)
   - Operational deficits will eventually go away with expanded hours and new programs increasing participation and fee increases

4. **Terry Kaiser, Maintenance Supervisor at NCHC**
   - The mechanical room has no ventilation thus causing chemicals to rust metal
   - Pool down for 3-4 weeks per year for scheduled maintenance and 1-2 weeks for unscheduled repairs
   - Confirmed US Aquatic reports of walls moving, slabs moving and the possibility of voids underneath the slab

5. **Steve Anderson, Retired Banker**
   - Selling naming rights could be an effective way to attract private capital.
   - At one point $600,000 of private funds from 5 donors was pledged
   - A capital campaign will not just emerge, the County needs to play a role
   - There seems to be enthusiasm for this project among the foundations, but partnerships will need to be established

6. **Brad Beilke, NCHC Physical Therapist**
   - Aquatic therapy has touched a lot of people's lives in very significant ways
   - Joint replacements, rehabilitation, arthritis, stroke victims, traumatic brain injury are just some examples of conditions treated
   - Participants come from as far away as the Upper Peninsula and Tomah
   - Relocating the pool to be near the nursing home will create an opportunity for MVCC residents to participate

7. **Sarah McCarthy**
   - Aquatic Therapy helps move patients off of opioids for chronic pain
   - Opioids for chronic pain management at end of life may be fine, but long-term, the

negative implications are significant
- Pain management works best with a multi-model approach and aquatic therapy is often an important component

8. **Dr. Mark Schuler**
   - Features of effective aquatic therapy:
     - Excellent physical therapy
     - Pool heated for therapy
     - Appropriate equipment
     - Sufficient depth
     - Opportunity for patients to continue on their own after a supported physical therapy
     - A supportive environment where patients receive emotional support
   - Many patients who have experienced medications, injections and regular physical therapy are looking for a better option and are referred for aquatic therapy
   - Weight unloading greatly reduces the patient's pain in physical therapy

9. **Dr. Adam Tuttle**
   - Made referrals for aquatic therapy for people with:
     - Back/neck pain
     - Arthritis
     - Fibromyalgia
     - Car accidents with multiple fractures
   - The closest comparable therapy pool is UW Health in Madison (150 miles)

5. **Policy Issues Discussion and Committee Determination to the County Board for its Consideration**

   No other agenda items.

6. **Next Meeting Logistics and Topics:**
   A. Committee members are asked to bring ideas for future discussion
   B. Next meeting will be Monday, March 20, 2017 at 4:30 p.m. at the Theater at North Central Health Care

7. **Announcements** – Chair Bootz reminded the audience about the public input meeting on Monday at NCHC, and encouraged their participation.

8. **Adjournment**

   There being no further business to discuss, **MOTION BY ROBINSON; SECOND BY ROSENBERG; TO ADJOURN THE HEALTH & HUMAN SERVICES COMMITTEE MEETING. MOTION CARRIED.** Meeting adjourned at 9:50 p.m.

Minutes Prepared by
Brad Karger on
March 15, 2017

SPECIAL MEETING
HEALTH AND HUMAN SERVICES COMMITTEE
FOR PUBLIC COMMENT ON BUILDING A
NEW AQUATIC THERAPY POOL
Minutes

Monday, March 20, 2017 – 4:30 p.m.
North Central Health Care Theater, 1000 Lakeview Drive, Wausau WI

Attendance:	**Present**	**Absent**
Matt Bootz, Chair	X	
John Robinson, Vice Chair	X	
Bill Miller	X	
Orval Quamme	X	
Katie Rosenberg	X	
Maynard Tremelling	X	
Dave Wysong	X	

County Board Members Present: Gray Beastrom, Jeff Zriny, E.J. Stark, Kurt Kluck, Craig McEwen, Yee Leng Xiong.

Also Present: Brad Karger, Brenda Budnik, Jessica Meadows, Michael Loy, Laura Scudiere, Dan Hoenecke, Mary Palmer

Additionally there were over 100 members of the public present at the meeting whose names were not recorded. Most signed a document expressing support for the building of a new pool (Attachment A)

1. **Call Meeting to Order**
   The Health & Human Services meeting was called to order at 4:35 p.m. by Chair Bootz. The instructions to the audience were:
   - This is not a public hearing with rigid registration requirements and time limits.
   - Everyone who wants to address the committee will have the opportunity.
   - Those who wish to express support or opposition to the building of a new pool can do so at the desk outside the theater.
   - Please be brief in your comments. Focus on how aquatic therapy has impacted you or people close to you or information you have about financing the cost of a new pool.
   - Don't expect a lot of interaction with committee members. Their job is to listen to understand and so not mistake the silence of committee members as disinterest.

2. **Approval of the Prior Meeting Minutes**
   MOTION BY TREMELLING; SECOND BY MILLER TO APPROVE THE MARCH 14, 2017 MEETING MINUTES. MOTOIN CARRIED.

3. **Public Comment**
   A. Public Comment on the Decision to Build a New Aquatic Therapy Pool
   Everyone present who wanted to address the committee did so:
   - Most shared their personal experiences with the pool, their disability and how the aquatic therapy helped them improve their quality of life.
   - Many represented that without the weight unloading of a heated pool, they would not have been able to do the exercises to improve their physical health

- A few made the point that all of us are just one unfortunate event from being disabled
- A few made the point that aquatic therapy can replace the need for opioids for chronic pain
- Many described the aquatic therapy pool as a supportive environment where patients receive emotional support from other patients and staff
- Many characterized the cost of building a new pool as an "investment" in the future
- A few provided assurance that if given a target, funds can be raised in the community to partially offset the capital costs

4. **Educational Presentations/Outcome Monitoring Reports** - None

5. **Policy Issues Discussion and Committee Determination to the County Board for its Consideration** - None

6. **Next Meeting Logistics and Topics:**
   A. Committee members are asked to bring ideas for future discussion
      Chair Matt Bootz said that the April 4, 2017, meeting will focus on committee deliberation on the future of aquatic therapy and at the April 10, 2017 meeting the committee will vote on a recommendation to the County Board

7. **Announcements** – None

8. **Adjournment**
   There being no further business to discuss, **MOTION BY ROBINSON; SECOND BY WYSONG; TO ADJOURN THE SPECIAL MEETING OF THE HEALTH & HUMAN SERVICES COMMITTEE MEETING. MOTION CARRIED.** Meeting adjourned at 6:45 p.m.

Minutes Prepared
by Brad Karger
on March 21, 2017

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name:	Address:
1 Joyce H Lewis	1506 Ardley Ave, Weston, WI 54476
2 DARRELL BRINKMANN	1418 PEARSON ST. WAUSAU 54401
3 Jill Brinkmann	1418 Pearson St. Wausau WI 54401
4 Dan Mahn	1706 Orchid Ln WAUSAU 54401
5 Jennie Mahn	1706 Orchid Ln Wausau 54401
6 David G Glowacki	716 Fleming St. Wausau 54403
7 Melanie Clark	3482 Camp Rd Mosinee 54455
8 Roy N CLARK	" " "
9 Kathi Zorn	915 N 2nd Ave Wausau WI 54401
10 Kym Stengler	110 N 120th Ave, Trlr 322, Marathon, WI 54448
11 Marcia Stanczak	412 S. 39th Ave Wausau 54401
12 Steve Anderson	R11009 River Road, Rib Mt. WI 54471
13 Rachel Riehle	405 S. 10th St Wausau, WI 54403
14 [illegible]	Wausau [illegible] 54403
15 John R [illegible]	6311 Kirk St WESTON, WI 54476

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name: Address:

16 Thomas P Wistrom 708 Fulton St Apt 120 Wausau WI 54403
17 Charles MacCarthy 2105 Ridgeview Dr Wausau 54401
18 Cheryl Domino 3514 Ross Ave Weston 54476
19 Nancy Robinson 1917 N. 10th Ave Wausau 54401
20 Suzanne W Vance N3702 Pine Rd. Hatley, WI 54440
21 John Seelman 2173 River Forest Ln 54455
22 Rosie Seelman " " " "
23 Amy Martin 7466 Old Hwy 51 Mosinee WI 54455
24 Dorothea Gisselman 1100 Katherine Dr. Wausau WI
25 Ruth B. Hochberger 6311 Kirk St. Weston
26 Linda L. Haney 714 N. 10th St. Wausau WI
27 Lloyd Johnson 906 N. 5th Ave, Wausau, WI 54401
28 Annette Johnson 906 N 5th Ave Wausau WI 54401
29 Linda Beaver 1004 Leon St Rothschild 54474
30 Betty Jensen R20761 Bambi Dr. Ringle 54471

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name: Address:

31 Bernadette Baumann 2402 McIntosh ST Wausau
32 Herb Schulz 6809 Lona Lee Weston
33 E. J. STARK 8006 SOUTHRIDGE DRIVE ROTHSCHILD WI
34 Norman E. Deffner M.D. 2301 Burrell Ave, Wausau 54401
35 GARY Gisselman - 319 Park Ave Wausau
36 Sharon Jackson 816 N. 9th Ave - Wausau
37 Linda Daghlton 4301 Henry Wausau, Wis 54403
38 Joe Lamb 2912 Mt. Weston, WI 54476
39 Judy Lamb 2912 Mt. Weston WI 54476
40 Ruth Ann Hafeman 2005 Hamilton St. Wausau 54403
41 DONNALEE HORNS 2705 N MTN RD WAUSAU 54401
42 Lois Zocher 1622 Pearson St. Wausau, WI 54401
43 Mary Neiter 2103 Decatur Dr. Wausau, WI 54401
44 Daniel Persen 334 Dolegliso St. Antigo WI 54407
45 Linda Brown 7403 Tower Rd Wausau, 54403

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name:	Address:
46 Richard Ostwald	4310 - Ashland ave, Wausau
47 Liz Fischer	2306 Oakwood Blvd, Wausau 54403
48 Clare Ostwald	4310 Ashland Ave. 54403
49 Rita Ann Kesler	2503 Camp Phillips 54403
50 Anna Stark	8006 South R. 54474
51 Edwin Waterman	1100 Lakeview Drive Wausau 54403
52 Joel Rome	1212 Grand Ave. Wausau, WI 54403
53 Jessica Meadows	R6500 Arrowhead Trail, Ringle WI 54471
54 Ed GALE	4405 BLACK BERRY DR 54401
55 Jack Kivi	8005 Birch St 54476
56 Geraldine Kowalski	2080 Old Hwy 51, Kronenwetter 54455
57 Mike Fischer	2306 Oakwood Blvd, Wausau, WI 54403
58 Lena Whitman	5407 Sunset St Weston 54476
59 Frank Sadowski	2420 FAWN Rd Marshall WI 54455
60 Laura L Most	1508 Merrill Ave Wausau 54401

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name:	Address:
1 Wayne Jensen	R20761 BAMBI DR RINGLE, WI 54471
2 Karen Fischer	1215 Monroe St Wausau 54403
3 Rick Meyer	1220 Steuben St Wausau 54403
4 Mary Abt	1930 Kimberley Rd. Kronen. 54455
5 Arlene Tassel	8806 Maryann St Rothschild 54474
6 Dot Reller	7320 W Whitepine Rd # Schofield 54476
7 Deb Schweickhardt	1704 Orchid Lane Wausau, WI 54401
8 Vicky Ninnemann	1421 Clubhouse Rd, Ringle
9 Dorothy Norton	1211 LeMessurier St Wausau
10 Lea Nutter	
11 [illegible]	3002 Begonia St Wausau 54401
12 [illegible]	3002 Begonia St Wausau 54401
13 Maralee Moellendorf	329 Reservoir Wausau 54401
14 Barbara Ritchie	917 Bertha St Wausau 54403
15 Jeff Lange	802 Fairway Dr, Mosinee 54455

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name:	Address:
16 Lisa Reese	5602 Pine Park St Weston
17 Rhuhaus Schmitz	1124 Eastbill Dr Wausau WI 54403
18 Jan Thusty	2318 Mt View Blvd Wausau 54403
19 Kaye McEwen	9503 Lambert St. Rothschild
20 Peter Vance	N3702 Pine Rd Hatley WI 54440
21 Liann Summers	N3057 County Road D Brantwood WI 54513
22 Laural Harder	3406 Kildear Lane, Wausau WI 54401
23 Chris Kensmoe	100 Urban St Rothschild, WI 54474
24 Kim Lawrence	2001 Red Wing Rd WAUSA 5440
25 Courtney Pfeifer	5708 Rippling Creek Dr. Weston 54476
26 Jeanette Schubring	870 Kent St Wausau
27 Zachary Schubring	1960 Thomas St Kronenwetter WI
28 Darla Schubring	1960 Thomas St Kronenwetter WI 54455
29 Laure Blanchard	1820 E Bridge St, Wausau 54403
30 Ionia Speener	1013 Graves Avenue, Wausau

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

Name: Address:

31 ELROY ZEMKE 601 George St, Rothschild, WI 54474
32 DAVID TLUSTY 2318 MOUNT VIEW BLVD WAUSAU
33 Kelly Fabry 1721 N. 1st Ave. Wausau 54401
34 Mary Ann Dykes 2402 Mount View Blvd Wausau WI 54403
35 Deborah Bromaugh 2800 Eagle Ave Wausau, WI 54401
36 Julie White T8045 N. 33rd St. Wausau WI 54403
37 GEROY MATZDORF 5602 HICKORY ST - WESTON WI 54426
38 [illegible] 2001 Redwing Rd Wausau, 54401
39 [illegible] 1828 E. Otter Ln. Mosinee 54455
40 WILLIAM METTOR 601 RUDORST WAUSAU, 54403
41 Jeff Whitford 5407 Sunset Schofield 54476
42 George Muchovich 1308 Marquardt Rd Wausau 54403
43 Jane K. Clark 8607 Margaret Rothschild 54474
44 Sandy Herzog 326 N. 6th Ave. Wausau, 54401
45 Judith Podjaski 6202 Carry Rae Ct Weston, 54476

PUBLIC COMMENT
IN **SUPPORT** OF A NEW AQUATHC THERAPY POOL
March 20, 2017

I have made the effort to be informed on both the benefits and the cost of Marathon County building a new aquatic therapy pool and after considering all the factors, I encourage the County's Health and Human Services Committee to **recommend approval of the capital investment**.

	Name:	Address:
46	Janice Cameron	3106 Quail Ave, Wausau WI 54401
47	Linda L. Leighton	1400 River Dr #113 Wausau 54403
48	Dianne Ames	1616 Marten St Wausau 54401
49	Brenda Arisk	3014 Zimmerman St Wausau 54403
50	Ruth E Solomon	1409 Prospect Ave Wausau 54403
51	Shirley Palucek	3603 Bob-O-Link, Wausau 54401
52	Jan J Palucek	3603 BOB-O-LINK AVE, WAUSAU 54401
53	Marvin Glodowski	716 Fleming St Wausau 54403
114 54	Diane Drabek	F1575 Elderberry Edgar 54426
55	KRISTA KOCHA	1912 BROADWAY LN WAUSAU 54403
56	Tom Retzlaff	2211 Zimmerman St 54403
57	Jean Bryan	T10064 Quarry Rd 54403
58	Erik Anderson	Aspirus —
119 59	Deb Ryan	702 Elm St 54401
60		

MARATHON COUNTY

DATE: March 14, 2017

TO: Health and Human Services Committee

FROM: Joan Theurer, Health Officer

SUBJECT: Request WPHA-WALHDAB 2017 Annual Conference

I am requesting approval for Sue Gantner, Board of Health member to attend the WPHA-WALHDAB 2017 Annual Conference scheduled May 23-25, Wilderness Resort, Wisconsin Dells, WI. The WALHDAB (Wisconsin Association for Local Health Departments and Boards) holds a joint annual conference with the Wisconsin Association of Public Health. As part of the conference, a Board of Health training session is being held on May 24th.

Sue Gantner is an active member of the Board of Health and Healthy Marathon County, being Past-President of Healthy Marathon County. The conference will give Sue and our Board of Health a statewide perspective of issues impacting communities across Wisconsin, initiatives underway, opportunities to seize, and a connection with other Board of Health members.

Sue Gantner has received a scholarship from WALHDAB to pay for the $250.00 conference fee. Marathon County Health Department will be responsible for reimbursing for her travel, lodging and meal at an estimated cost of $232.40.

- Travel 240 miles at .535/mile = $128.40
- Meals – Dinner 1 day @ $15 per dinner = $15.00
- Lodging – 1 night @ 89 per night = $89.00

Funds are available in the department's budget to support Board of Health members' attendance.

Health Department
1000 Lake View Drive, Suite 100 | Wausau, WI 54403-6781 | T 715.261.1900 | F 715.261.1901

Health Officer Notes
April 2017

Policy Issues for Discussion and Possible Action

1. **Amend the Marathon County Social Host Ordinance** – On December 6, 2011, the Board of Health motioned to support including model social host language in Marathon County Ordinance Section 9.03 – Violation of alcohol beverage laws by underage persons. The ordinance was repealed and recreated to add the following: *"Premises" shall have the meaning under Sec. 125.02(14m), Wis. Stats., and shall also include all public or private property, regardless of whether said property is described in a license or permit.*

   On November 10, 2016 Scott Corbett, Corporation Counsel informed county officials of a recent Court of Appeals case which invalidated Fond du Lac County's Social Host Ordinance. It is Mr. Corbett's opinion that Marathon County's language is so similar to the County of Fond du Lac v. Stuart D. Muche case that it should be read as invalidating Marathon County's ordinance as well, at least to the extent that it expands the scope of the property subject to regulation beyond premises described in a license or permit. Fond du Lac County had 90 days to appeal the decision. Given no action has been taken, Mr. Corbett is advising Marathon County to correct our ordinance by the striking the last phrase below.

   (d) "Premises" shall have the meaning under Sec. 125.02(14m), Wis. Stats., ~~and shall also include all public or private property, regardless of whether said property is descried in a license or permit~~ any successor statutes.

   Enclosed find an email from Scott Corbett dated November 10, 2016 re: Social Host Ordinance; Invalidation of Ordinance, the Wisconsin Counties Association analysis, along with draft language changes for Section 9.03. – Violations of alcohol beverage laws by underage person. The board is being asked to adopt the draft language change and move a recommendation forward to the Health & Human Services Committee.

2. **Overview of the State Budget and Bills Impact on Local Health Departments** – Joan Theurer, Health Officer, will highlight key budget bill items. Enclosed, find a copy of the WALHDAB Analysis – Wisconsin 2017-2019 Budget Introduced, dated February 14, 2017, and the 2017-2018 Legislative Grid, updated 2/21/2017.

3. **Discuss Takeaways from the March 20, 2017 Board of Health Legislative Education Meeting and Identify Next Steps –** The Board will share key takeaways from the March 20th meeting and identify what follow-up action, if any, is to be taken.

4. **Review and Update the Board of Health Policy Opportunities for 2017** – The Board will review 2017 strategies, and identify additional opportunities. Enclosed, find an updated copy of the Board of Health Policy Opportunities for 2017, based on the February 7th Board of Health discussion.

5. **Discuss the 2017 Health Officer Work Plan** – Joan Theurer, Health Officer, will walk through the plan of work for 2017. Enclosed, find the 2017 Health Officer Work Plan.

6. **Report form the Health & Human Services Committee on Policy Issues Impacting Public Health** – John Robinson, Vice-Chair, will provide any updates since the February 7th Board of Health meeting.

Education, Reports and/or Policy Issues for Discussion Only

1. None

Future Agenda Items

2. Next Meeting
    a. May 2, 2017
        i. Overview of Healthy Communities Institute - A Community Partnership Initiative

Sec. 9.03. - Violations of alcohol beverage laws by underage persons.

(1) *Definitions.* For the purposes of this section, the following terms have the following meanings:

(a) *Adult* means a person who has obtained the age of 17 years old or older.

(b) *Control* means the power to direct, manage, oversee, supervise, organize, conduct, and shall also mean, hosting, allowing or permitted or sponsoring. A person need not be present on the premises to be in control.

(c) *Knowingly permit* means there must be evidence or a reasonable inference from evidence that the person knew or should have known that consumption of alcoholic beverages would occur.

(d) *Premises* shall have the meaning under 125.02(14m), Wis. Stats., and ~~shall also include all public or private property, regardless of whether said property is described in a license or permit~~any successor statutes.

(2) *Providing alcohol beverages to underage persons.*

(a) *Restrictions.*

1. No person may procure for, sell, dispense or give away alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

2. No license or permittee shall sell, vend, deal or traffic any alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as a part of a religious service.

4. No adult may intentionally encourage or contribute to a violation of par. (1) of this ordinance or § 125.07(4)(a) or (b), Wis. Stats.

(b) *Penalties.* Section 125.07(1)(b), Wis. Stats., providing penalties for violations of this subsection is specifically adopted as now written or may be subsequently amended, repealed, created or recreated or renumbered and is incorporated herein by reference.

(3) *Underage persons.*

(a) *Restrictions.* No person under the legal drinking age shall consume, possess, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverages or loiter upon the premises of any business establishment licensed for the sale of intoxicating liquor or fermented malt beverages in violation of Ch. 125, Wis. Stats., or any amendments or revisions thereto.

(b) *Penalties.* Penalties for violation of this section shall be as specified in Ch. 125, Wis. Stats., including any amendments or revision thereto. Section 938.17(2), Wis. Stats., including any revisions and amendments thereto, is hereby adopted by reference.

(O-9-88; O-9-09; O-3-12)

von Briesen
von Briesen & Roper, s.c. | Attorneys at Law

MEMORANDUM

TO: Mark O'Connell, Executive Director
Wisconsin Counties Association

FROM: Andrew T. Phillips, Ryan P. Heiden, Patrick C. Henneger
von Briesen & Roper, s.c.

RE: Social Host Ordinances and Analysis of *County of Fond du Lac v. Stuart D. Muche*, No. 2015AP2223 (Wis. Ct. App. Oct. 26, 2016).

DATE: November 7, 2016

EXECUTIVE SUMMARY

The Wisconsin Counties Association ("WCA") has asked us to provide an analysis of the Wisconsin Court of Appeals' recent decision in *County of Fond du Lac v. Stuart D. Muche*, No. 2015AP2223 (Wis. Ct. App. Oct. 26, 2016), which addressed whether Fond du Lac County's (the "County") social host ordinance was in strict conformity with state standards regulating underage drinking. The Wisconsin Court of Appeals held the County's social host ordinance was invalid because it was not in strict conformity with state standards.

BACKGROUND

In *Muche,* Mr. Muche hosted a graduation party at his home wherein underage friends of Mr. Muche's son brought beer to the party. Mr. Muche had reason to believe that these underage individuals intended to or were consuming the beer and, as a result, confiscated their keys shortly before county sheriff's deputies arrived at Mr. Muche's property. Mr. Muche admitted to the deputies that he did nothing to stop the underage individuals from drinking the alcohol they brought to the party, which led to Mr. Muche being cited for violating Fond du Lac County Ordinance § 6-5, the social host ordinance.

The County's social host ordinance provides:

> It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage or will or does possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

Under the ordinance, a violation may also occur "if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act" or even if the individual who hosts the event or gathering is not present at the time." Ord. § 6-5(d)(1)-(2).

Mr. Muche filed a motion to dismiss the citation, arguing that the County's social host ordinance went beyond state law by regulating social host conduct in private residences and, therefore, the ordinance was invalid. The circuit court disagreed and found Muche violated the ordinance. Muche appealed the decision to the Wisconsin Court of Appeals, which reversed the circuit court. The analysis of the court of appeals' decision follows.

ANALYSIS

Section 125.07(1), Wis. Stat., establishes restrictions relating to alcohol and underage persons. In addition, sec. 125.10(2) grants counties the power to enact legislation in concert with sec. 125.07(1) only if it strictly conforms to the statutory subsection. Thus, the issue in the case was whether the County's social host ordinance strictly conformed to sec. 125.07(1).

Section 125.07(1) provides:

> 1. "No person may procure for, sell, dispense or give away any alcohol beverages to an underage person …." Sec. 125.07(1)(a)1.
>
> 2. "No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with an underage person …." Sec. 125.07(1)(a)2.
>
> 3. "No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control." This subdivision does not apply to alcohol beverages used exclusively as part of a religious service. Sec. 125.07(1)(a)3.
>
> 4. "No adult may intentionally encourage or contribute to" an underage person "who knowingly possesses or consumes alcohol beverages." Sec. 125.07(1)(a)4., (4)(b).

The County based its argument that its social host ordinance is in strict conformity with the state statute on the only provision that explicitly penalizes knowledge and inaction, Wis. Stat. sec. 125.07(1)(a)3. Section 125.07(1)(a)3. states in pertinent part: "No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on *premises* owned by the adult or under the adult's control." (Emphasis added.) "Premises" is defined under Wis. Stat. sec. 125.02(14m) as "the area described in a license or permit."

Mr. Muche contended that the definition of "premises" under Wis. Stat. sec. 125.07(1)(a)3. limited the term to mean only the areas described in a license or permit—not a private residence. *Id*. at ¶ 14. The Wisconsin Counties Association filed an amicus brief at the invitation of the court and argued that "premises" means "property owned by the adult or under the adult's

control" and, thus, the County's social host ordinance was in conformity with Wis. Stat. sec. 125.07(1)(a)3.

In addressing the parties' arguments, the court relied upon on the Wisconsin Supreme Court's decision in *Nichols v. Progressive N. Ins. Co.*, 2008 WI 20, 308 Wis. 2d 17, 746 N.W.2d 220 and, in doing so, concluded that Wis. Stat. sec. 125.07(1)(a)3. does not penalize social hosts for conduct in private residences despite the fact that *Nichols* did not directly address the statute. *Id*. at ¶ 16. The court of appeals felt bound by the Wisconsin Supreme Court's statement in *Nichols* that "[n]othing in the Wisconsin statutes renders the [social hosts'] conduct unlawful." The court of appeals reasoned that if "premises" in Wis. Stat. sec. 125.07(1)(a)3. were to mean "property," as argued by WCA, it would render the Supreme Court's statement in *Nicholas* inaccurate. *Id*. at ¶ 19, citing *Nichols*, 308 Wis. 2d 17, ¶ 33. Thus, by regulating social host conduct in private residences that were not licensed or permitted, the ordinance did not strictly conform to sec. 125.07(1)(a)3.

The court went on to further invalidate the County's ordinance by examining the penalty imposed under the ordinance versus the penalty imposed under Wis. Stat. sec. 125.07(1)(b). Upon a violation of the County's ordinance, a forfeiture of "not less than $1,000.00 nor more than $5,000.00, together with the costs of prosecution" was imposed. Ord. § 6-5(f). Upon violation of Wis. Stat. sec. 125.07, a first offense is a maximum forfeiture of $500. Because the County's ordinance imposed a penalty that was greater than that which is imposed under Wis. Stat. sec. 125.07, the court found the County's social host ordinance violated the strict conformity requirement and, as a result, rendered the County's ordinance invalid on separate grounds.

CONCLUSION

In light of the court of appeals decision in *Muche*, counties that have enacted social host ordinances are advised to consult with legal counsel and revisit the ordinances to determine whether they are in strict conformity with Wis. Stat. sec. 125.07(1), including the amount of the forfeitures imposed by the ordinance.

If you have any questions regarding this memorandum, please let us know. We appreciate the opportunity to be of service to the WCA and its member counties.

von Briesen
von Briesen & Roper, s.c. | Attorneys at Law

MEMORANDUM

TO: Mark O'Connell, Executive Director
Wisconsin Counties Association

FROM: Andrew T. Phillips, Ryan P. Heiden, Patrick C. Henneger
von Briesen & Roper, s.c.

RE: Social Host Ordinances and Analysis of *County of Fond du Lac v. Stuart D. Muche*, No. 2015AP2223 (Wis. Ct. App. Oct. 26, 2016).

DATE: November 7, 2016

EXECUTIVE SUMMARY

The Wisconsin Counties Association ("WCA") has asked us to provide an analysis of the Wisconsin Court of Appeals' recent decision in *County of Fond du Lac v. Stuart D. Muche*, No. 2015AP2223 (Wis. Ct. App. Oct. 26, 2016), which addressed whether Fond du Lac County's (the "County") social host ordinance was in strict conformity with state standards regulating underage drinking. The Wisconsin Court of Appeals held the County's social host ordinance was invalid because it was not in strict conformity with state standards.

BACKGROUND

In *Muche,* Mr. Muche hosted a graduation party at his home wherein underage friends of Mr. Muche's son brought beer to the party. Mr. Muche had reason to believe that these underage individuals intended to or were consuming the beer and, as a result, confiscated their keys shortly before county sheriff's deputies arrived at Mr. Muche's property. Mr. Muche admitted to the deputies that he did nothing to stop the underage individuals from drinking the alcohol they brought to the party, which led to Mr. Muche being cited for violating Fond du Lac County Ordinance § 6-5, the social host ordinance.

The County's social host ordinance provides:

> It is unlawful for any person(s) to host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage or will or does possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

Under the ordinance, a violation may also occur "if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act" or even if the individual who hosts the event or gathering is not present at the time." Ord. § 6-5(d)(1)-(2).

Mr. Muche filed a motion to dismiss the citation, arguing that the County's social host ordinance went beyond state law by regulating social host conduct in private residences and, therefore, the ordinance was invalid. The circuit court disagreed and found Muche violated the ordinance. Muche appealed the decision to the Wisconsin Court of Appeals, which reversed the circuit court. The analysis of the court of appeals' decision follows.

ANALYSIS

Section 125.07(1), Wis. Stat., establishes restrictions relating to alcohol and underage persons. In addition, sec. 125.10(2) grants counties the power to enact legislation in concert with sec. 125.07(1) only if it strictly conforms to the statutory subsection. Thus, the issue in the case was whether the County's social host ordinance strictly conformed to sec. 125.07(1).

Section 125.07(1) provides:

> 1. "No person may procure for, sell, dispense or give away any alcohol beverages to an underage person …." Sec. 125.07(1)(a)1.
>
> 2. "No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with an underage person …." Sec. 125.07(1)(a)2.
>
> 3. "No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control." This subdivision does not apply to alcohol beverages used exclusively as part of a religious service. Sec. 125.07(1)(a)3.
>
> 4. "No adult may intentionally encourage or contribute to" an underage person "who knowingly possesses or consumes alcohol beverages." Sec. 125.07(1)(a)4., (4)(b).

The County based its argument that its social host ordinance is in strict conformity with the state statute on the only provision that explicitly penalizes knowledge and inaction, Wis. Stat. sec. 125.07(1)(a)3. Section 125.07(1)(a)3. states in pertinent part: "No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on *premises* owned by the adult or under the adult's control." (Emphasis added.) "Premises" is defined under Wis. Stat. sec. 125.02(14m) as "the area described in a license or permit."

Mr. Muche contended that the definition of "premises" under Wis. Stat. sec. 125.07(1)(a)3. limited the term to mean only the areas described in a license or permit—not a private residence. *Id*. at ¶ 14. The Wisconsin Counties Association filed an amicus brief at the invitation of the court and argued that "premises" means "property owned by the adult or under the adult's

control" and, thus, the County's social host ordinance was in conformity with Wis. Stat. sec. 125.07(1)(a)3.

In addressing the parties' arguments, the court relied upon on the Wisconsin Supreme Court's decision in *Nichols v. Progressive N. Ins. Co.*, 2008 WI 20, 308 Wis. 2d 17, 746 N.W.2d 220 and, in doing so, concluded that Wis. Stat. sec. 125.07(1)(a)3. does not penalize social hosts for conduct in private residences despite the fact that *Nichols* did not directly address the statute. *Id*. at ¶ 16. The court of appeals felt bound by the Wisconsin Supreme Court's statement in *Nichols* that "[n]othing in the Wisconsin statutes renders the [social hosts'] conduct unlawful." The court of appeals reasoned that if "premises" in Wis. Stat. sec. 125.07(1)(a)3. were to mean "property," as argued by WCA, it would render the Supreme Court's statement in *Nicholas* inaccurate. *Id*. at ¶ 19, citing *Nichols*, 308 Wis. 2d 17, ¶ 33. Thus, by regulating social host conduct in private residences that were not licensed or permitted, the ordinance did not strictly conform to sec. 125.07(1)(a)3.

The court went on to further invalidate the County's ordinance by examining the penalty imposed under the ordinance versus the penalty imposed under Wis. Stat. sec. 125.07(1)(b). Upon a violation of the County's ordinance, a forfeiture of "not less than $1,000.00 nor more than $5,000.00, together with the costs of prosecution" was imposed. Ord. § 6-5(f). Upon violation of Wis. Stat. sec. 125.07, a first offense is a maximum forfeiture of $500. Because the County's ordinance imposed a penalty that was greater than that which is imposed under Wis. Stat. sec. 125.07, the court found the County's social host ordinance violated the strict conformity requirement and, as a result, rendered the County's ordinance invalid on separate grounds.

CONCLUSION

In light of the court of appeals decision in *Muche*, counties that have enacted social host ordinances are advised to consult with legal counsel and revisit the ordinances to determine whether they are in strict conformity with Wis. Stat. sec. 125.07(1), including the amount of the forfeitures imposed by the ordinance.

If you have any questions regarding this memorandum, please let us know. We appreciate the opportunity to be of service to the WCA and its member counties.

Mary Palmer

From: Scott Corbett
Sent: Thursday, November 10, 2016 10:15 AM
To: Ken Heimerman; Theresa Wetzsteon; Scott Parks; Chad Billeb
Cc: Joan Theurer; Brad Karger; Lance Leonhard; Craig McEwen; Matt Bootz; John Robinson; Michael Puerner; Kurt Gibbs
Subject: Social Host Ordinance; Invalidation of Ordinance
Attachments: Analysis of Soc Host Court Case.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Greetings,

Please see the attached analysis by the Wisconsin Counties Association of a recent Court of Appeals case which invalidated Fond du Lac County's Social Host Ordinance. One of the issues targeted by the court in *County of Fond du Lac v. Stuart D. Muche*, No. 2015AP2223 (Wis. Ct. App. Oct. 26, 2016), is directly applicable to Marathon County's Ordinance. For the reasons set forth below, I recommend that Marathon County cease issuing citations under sec. 9.03(2)(a)3, of the General Code for Marathon County, to persons permitting consumption of alcohol by minors, unless the property on which the violation occurs is within a strict application of the term "premises," under sec. 127.02(14m), Stats. (i.e. an area described in a license or permit).

Section 125.07(1), Stats., establishes restrictions relating to alcohol and underage persons. Section 125.10(2) grants counties the power to enact legislation in concert with sec. 125.07(1) only if the ordinance "strictly conforms" to the statute. Section 125.07(1)(a)3, Stats. says ,in pertinent part: "No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on **premises** owned by the adult or under the adult's control." Section 125.02(14m), Stats., defines "Premises" as "the area described in a license or permit."

When we created Marathon County's Social Host Ordinance, we deliberately expanded the scope of the property subject to regulation as follows: "*Premises* shall have the meaning under 125.02(14m), Stats., **and shall also include all public or private property, regardless of whether said property described in a in a license or permit**." See sec. 9.03(1)(d), Gen. Code.

The Fond du Lac County's Ordinance reads: "It is unlawful for any person(s) to host or allow an event or gathering at any **residence, premises or on any other private or public property** where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage or will or does possess any alcohol or alcoholic beverage with the intent to consume it and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s)."

The court invalidated Fond du Lac County's ordinance because it did not strictly conform to sec. 125.07(1)(a)3, Stats., in that it regulated social host conduct in private residences that were not licensed or permitted.

It is my opinion that Marathon County's language is so similar to the *Muche* case that it should be read as invalidating Marathon County's ordinance as well, at least to the extent that it expands the scope of the property subject to regulation beyond premises described in a license or permit. I believe we can correct our ordinance by striking the last phrase. Please contact me with any questions.

Scott

Scott M. Corbett
Marathon County Corporation Counsel
(715)261-1140

This e-mail, and any attachments, contains confidential information that is protected by attorney-client privilege, attorney work product doctrine or is otherwise protected by law. This transmission is intended for the exclusive use of the named recipient(s).

FAQ's ON AQUATIC THERAPY AND
BUILDING A NEW AQUATIC THERAPY POOL
(1st Draft)

1. **Why is the aquatic therapy pool needed**?
   A. Does it fulfill a State mandate? Do other Counties provide this service?
   No. Aquatic therapy is not a mandated service. In fact, Marathon County may be unique among Wisconsin counties in providing aquatic therapy.

   B. How does aquatic therapy help the County achieve its mission and goals?
   Marathon County aspires to be the healthiest and safest County in Wisconsin and aquatic therapy supports both ends. The Health and Human Services Committee has heard from many people who said that aquatic therapy has allowed them to be ambulatory when they otherwise would have been confined to a wheelchair or isolated in the community. The committee also heard from health care providers about the success of aquatic therapy in treating injuries like multiple fractures resulting from a car accident, pain caused by joint replacement, and illnesses like fibromyalgia, arthritis, traumatic brain injury, stoke victims, etc. Additionally, aquatic therapy can minimize the need for opioids for pain management.

   C. What is the benefit to pool users? How can we confirm that the expected benefits are received?
   The number of people using the pool has gone up from around 100 in 1977 to over 1,400 in 2016.

   119 pool supporters attended the Health and Human Services special meeting on March 20, 2017 and many reported that aquatic therapy has resulted in dramatic improvement in their physical condition and has enhanced their quality of life.

   On March 17, 2017, one of the presenting physicians identified that factors that all need to be in place for aquatic therapy to be effective:
   - Access to a skilled physical therapist
   - Sufficient water depth
   - Pool heated for therapy
   - Appropriate equipment
   - Opportunity for patients to continue on their own after a supported physical therapy
   - A supportive environment where patients receive emotional support

   In order to objectively confirm the health benefits of aquatic therapy someone would have to review the medical files of participants and compare those results to outcomes of similar cases not offered aquatic therapy. Because of the scale of this endeavor, we have not tried to objectively confirm the benefits of aquatic therapy.

   D. Where do the people using the aquatic therapy pool live?
   Most live in the Wausau Metro Area. A few travel long distance such as from Chippewa Falls or the Upper Peninsula of Michigan, but the overwhelming majority of pool users are Marathon County residents.

   E. Does the medical community see value in aquatic therapy and refer patients?

Yes, at the Health and Human Services Committee meeting three health care providers (Dr. Chris Ferguson, Dr. Mark Schuler, and Dr. Adam Tuttle) reported that their patients greatly benefitted from aquatic therapy and that they routinely refer patients.

2. **What is the cost of aquatic therapy**?

A. What is the projected cost of the capital investment? How firm are these numbers?
U.S. Aquatics projects a cost of $5,705,787 for option 3R, new 14,700 square foot (SF) Aquatic Therapy Facility with 3,428 SF Rectangle Therapy Pool.

These calculations were developed in July of 2016. U.S. Aquatics projects a 5% increase in costs due to inflation.

The figures generated by U.S. Aquatics were similar to those generated by Angus Young Associates.

B. Why can't the current pool be closed temporarily and renovated?
It can be. Construction will result in the aquatic therapy pool closing for a year. In the meantime the pool user will not have access to aquatic therapy, and new staff will have to be recruited when the pool is reopened.

C. What are the costs to demolish the pool and remodel that space? What would that space be used for?
It will depend upon what we decide to do with the space after demolition. U.S. Aquatics estimate a cost of $406,250 to demolish the pool, remove 9,440 SF of the existing natatorium and add a new exterior wall. This approach will result in part of the existing facility being green space and convert the current support area for shelled space for future use.

The Health and Human Services Committee has not yet considered what future space needs the County has that the current support areas might be converted into.

D. What are the annual operating costs of aquatic therapy? What would that space by used for?
Aquatic therapy currently runs about $100,000 annual deficit when both direct and indirect expenses are allocate.

Yes. The new pool is projected to have a $76,607 operational deficit the first year of operation and by the end of the 5th year that deficit will shrink to $55,577. These projections include a reduction in water use (600,000 gallons to 10,000 gallons) and a 50% reduction in electrical costs because of enhanced energy efficiency.

E. What are the sources of funds to operate the pool? Does this change with a new pool?

Current Revenue	
Patients Services	$551,000
Other Revenue	$ 99,000
Allocated Revenue	$ 3,900
Marathon County Materials (Maintenance)	$137,725
County Appropriation	$150,327
Total Revenue	$941,956

With a new pool it is expected that our current programs will become more attractive and popular and that new programs, fee increases and expanded hours could completely eliminate the need for a County subsidy to aquatic therapy.

F. What can we expect from private donations toward a capital campaign?
Early inquiries of pool supporters resulted in about $600,000 of private funds from five donors being pledged. The North Central Health Care Foundation projects that a capital campaign in support of a new aquatic therapy pool could net 1.5 million dollars in private donations.

G. How much do we currently charge for aquatic therapy?

Evaluation (per customer)	$350.00
Therapy per hour	$282.00
Aquatic Maintenance	$ 51.00

However, Medicare and Medicaid do not reimburse us for the full charge:

Medicare/hour	$101 (48% of our customers)
Medicaid/hour	$ 93 (21% of our customers)

3. **What is the physical structure of the current pool like and what do we envision being different with a new pool?**

A. When was the current pool constructed, and what is its expected usable life?
The therapy pool was built in 1977. It is well past its expected life. The evaluation by U.S. Aquatics shows that the system could fail at almost any moment. There is certainly no expectation that if the pool decision is postponed for another year that the therapy pool will continue to be operational until a new pool is constructed.

B. How is the pool now structurally and mechanically?
There is no current safety hazard in operating the aquatic therapy pool, but there isn't any doubt that the pool needs more than updating. It needs to be replaced, or very soon it will be determined to be unsafe and closed.

C. Would remodeling the existing pool be less expensive than building a new pool?
Yes. U.S. Aquatics estimated a cost range of $3.8 million to $4.1 million to renovate with rectangle therapy pool in existing natatorium at existing facility. (Option 2RE)

D. Can the new pool be located off the NCHC campus?
No. The aquatic therapy pool operates under the hospital license of North Central Health Care. This license allows for certification and billing to the Medicare and Medicaid Programs.

Summary Prepared
by Brad Karger
on April 7, 2017