



# DODGE COUNTY SHERIFFS OFFICE

Incident #: 22-19114

Reporting Officer: DALE SCHMIDT DOSO

Report Time: 06/14/2022 10:07:44

## Incident

Incident Nature  
MISCELLANEOUS

Address  
127 E OAK ST;  
ADMINISTRATION BLDG  
DODGE CO  
JUNEAU, WISCONSIN 53039

Occurred From  
06/14/2022 10:07:44

Occurred To  
06/14/2022 10:07:44

Received By  
DALE SCHMIDT DOSO

How Received  
OFFICER REPORT

Contact

Disposition  
ADMINISTRATIVE CLOSURE

Miscellaneous Entry

Disposition Date  
07/14/2022

Cleared  
N

Judicial Status

Cleared Date

Clearance  
REPORT TAKEN

Cargo Theft Related

Responding Officer(s)  
DALE SCHMIDT DOSO

Circumstances  
Code

Comment

CENTER SECTOR

## Persons

**BOELK, ROBERT L JR  
MENTIONED**

Address

[REDACTED]

Phone

[REDACTED]

DOB

[REDACTED]

Race

[REDACTED]

Sex

[REDACTED]

Ethnicity

[REDACTED]

Height

[REDACTED]"

Weight

[REDACTED]

### SIEGMANN, DANIEL L COMPLAINANT

Address [REDACTED]	Phone [REDACTED]	DOB [REDACTED]
Race WHITE	Sex Male	Ethnicity
Height [REDACTED]	Weight [REDACTED]	

### FROHLING, DAVID W SUSPECT

Address [REDACTED]	Phone [REDACTED]	DOB [REDACTED]
Race [REDACTED]	Sex [REDACTED]	Ethnicity NON-HISPANIC
Height [REDACTED]	Weight [REDACTED]	

### NASS, KIMBERLY SUSPECT

Address 127 E OAK ST; ADMINISTRATION BLDG DODGE CO JUNEAU WISCONSIN 53039	Phone [REDACTED]	DOB
Race WHITE	Sex Female	Ethnicity
Height	Weight [REDACTED]	

## Narratives

### Original Narrative

07/14/2022 12:34:43

\*\*\*ORIGINAL NARRATIVE BY SHERIFF DALE SCHDMIDT #101/djd\*\*\*

#### COMPLAINT FROM DISTRICT ATTORNEY'S OFFICE

On June 8, 2022, I, Sheriff Dale Schmidt, received a packet from Dodge County District Attorney's Office Managing Attorney Robert Barrington regarding a complaint received from Dodge County Board Supervisor Daniel Siegmann alleging that Dodge County Board Chairman David Frohling and Corporation Counsel Kimberly Nass violating Wisconsin State Statute 19.83 and 19.84 regarding violations of Wisconsin Open Meetings law and rules of Order Governing the County Board of Supervisors of Dodge County. A copy of this complaint is attached to this report as "JUNE 8 2022 DOCUMENTS RECIEVED FROM MANAGING ATTORNEY BOB BARRINGTON.PDF". It should be noted that the complaint that was received from Daniel Siegmann was written in the form of process with the

"Office of the District Attorney Dodge County, Wisconsin Kurt Klomberg, District Attorney" written on the letterhead, making it appear as though this filing was from the district attorney and not from Daniel Siegmann.

In the complaint a list of items are alleged to have occurred. After close examination, I have been able to parse out what I believe to be the three chief complaints.

1. Committee assignments were made by the chair of the Dodge County Board of Supervisors. It is believed that those committee assignments were made in violation of Rule #33 of the Dodge County Board of Supervisors as it is believed that the committee assignments not evenly apportioned to members. Rule #33 states as follows and is taken directly from the 2022 Dodge County Directory:

"33. The term of membership on all committees, commissions or boards where the appointment is made by the Board Chairman and confirmed by the County Board shall be for a two (2) year term, except as otherwise provided by resolution, ordinance or Wisconsin Statute. In all cases where the appointment or election to the committee, board or commission is by the County Board, the term of membership shall be for two (2) years, unless provided otherwise by resolution, ordinance, or Wisconsin Statute. The County Board Chair shall endeavor to evenly apportion members when making committee assignments. An individual appointed to a committee of the County Board by the Board Chairman and confirmed by the County Board, may be removed from that committee at a meeting of the County Board, upon the recommendation of the Board Chairman and after a motion for removal has been made and seconded, upon an affirmative vote of not less than two - thirds of members elect."

2. The Dodge County Board met in open session on May 17, 2022. As part of that meeting, debate on Special Order of Business item #1, "Confirm County Board Committee Appointments for 2022-2024" was not allowed by the chair which allegedly violates open meeting laws and constitutional freedom of speech. It is further alleged that Kimberly Nass is complicit as she allegedly provided illegal advice to the chair.

3. The Dodge County Chair allegedly allowed for a violation of open meeting allowing for debate following the vote on Special Order of Business item #1. The Dodge County Chair illegally made a decision to officially alter the committee's make-up, even though the board had just confirmed the original appointments of that committee just one and a half minutes earlier.

#### COUNTY BOARD MEETING

I was able to view the May 17, 2022 video of the Dodge County Board of Supervisor Meeting online via the Dodge County website. A direct link to that video is located at <https://vimeo.com/710877184>, which can be viewed via the internet.

At 2:00 minutes into the county board meeting, Dodge County Board Chairman begins addressing the business of item #6 Special Order of Business. I will list verbatim the conversation that occurs on the video as follows:

Chairman David Frohling: "Confirm County Board Committee Appointments for 2022 - 2024. I have a motion by Caine and a second by Schmidt."

At that time, a request to speak is made on the electronic voting board by Daniel Siegmann. It does not appear that Chairman David Frohling looks down at his screen at this point to see if there are any requests to speak.

Chairman David Frohling: "All in favor signify by aye."

Board Members: "Aye."

Chairman David Frohling: "Opposed."

Board Members: \*Silent\*

Chairman David Frohling: "That is carried."

Supervisor Robert Boelk: "Wait, I have a question."

Chairman David Frohling points at Supervisor Boelk.

Supervisor Robert Boelk: "I got a question. Hey on the...the committee appointments, uh, oh forget it, I'll, I'll wait."

Chairman David Frohling: "Okay. Uh, where we at. Mr. Siegmann."

Supervisor Dan Siegmann: "Can we speak on this or not? I don't know?"

Chairman David Frohling: "Pardon me?"

Supervisor Dan Siegmann: "Can we speak on this #6 or not?"

Chairman David Frohling: "Um, there, it's not debatable and its..."

Supervisor Dan Siegmann: "Not debatable."

Chairman David Frohling: "Right."

Supervisor Dan Siegmann: "Can we, okay thank you."

Supervisor Robert Boelk: "I have a question again."

Chairman David Frohling: "Okay, Mr. Boelk"

Supervisor Robert Boelk: "On the, on the county commission meetings, uh, I see that, ya know, as we talk the chairman is on there and then the second chair and if all of these other counties have the first chair and the chairman at these meetings, um, isn't it only appropriate to have the first chair and the chairman at these meetings? And if its..and if its, um, under this bodies, ya know, jurisdiction to allow you to go to these meetings, wouldn't it fall under rule #1 and state statute 59.12 about the chair, in his absence the first chair, and if the first chair can't make it, the second chair fills in for him?"

Chairman David Frohling: "This is for the ICC meeting? Is that what you are talking about?"

Supervisor Robert Boelk: "Yup."

Chairman David Frohling: "Um yeah and...and I put it on as Supervisor Johnson as second because I thought you were not available at that time, but, if you're available, you will be appointed to go to that meeting."

Supervisor Robert Boelk: "Alright, thank you."

This topic ended at minute 4:07 of the recording.

#### REVIEW OF COMPLAINT #1

In reviewing complaint #1, I first reviewed Wisconsin State Statute governing the authority of a county to appoint committees. This statute is Wisconsin Statute 59.13(1) which states:

(1) The board may, by resolution designating the purposes and prescribing the duties thereof and manner of reporting, authorize their chairperson to appoint before June 1 in any year committees from the members of the board, and the committees so appointed shall perform the duties and report as prescribed in the resolution.

In a footnote to this statute there is an attorney general's opinion (61 Atty. Gen. 214.) which states that while a county board is not required to have committees, a county board may not delegate appointment of committee members to a committee of the board.

As a result of state statute's reference to a county board authorizing a chairperson to appoint committees via resolution, I located resolution 21-95 (Attached as "RESOLUTION 21-95") which is stamped adopted by the Dodge County Board on March 15, 2022 and signed by the Dodge County Clerk, Karen Gibson. In this resolution rule #33 governs the appointments of committees. Resolution #21-95 is attached to this report. Rule #33 is cited as follows:

"33. The term of membership on all committees, commissions or boards where the appointment is made by the Board Chairman and confirmed by the County Board shall be for a two (2) year term, except as otherwise provided by resolution, ordinance or Wisconsin Statute. In all cases where the appointment or election to the committee, board or commission is by the County Board, the term of membership shall be for two (2) years, unless provided otherwise by resolution, ordinance, or Wisconsin Statute. The County Board Chair shall endeavor to evenly apportion members when making committee assignments. An individual appointed to a committee of the County Board by the Board Chairman and confirmed by the County Board, may be removed from that committee at a meeting of the County Board, upon the recommendation of the Board Chairman and after a motion for removal has been made and seconded, upon an affirmative vote of not less than two - thirds of members elect."

In reading the rule, it specifically states that the county board chair shall endeavor to evenly apportion members when making committee assignments. When analyzing this directive of the resolution, I first looked up the definition of the word "endeavor". Using the Merriam-Webster online dictionary, the word "endeavor" as a verb, as used in the rule, is defined as: to attempt by exertion of effort. In a second definition it means: to strive to achieve or reach.

In the interpretation of rule #33 it is clear by the definition that the county board rules are subjective and left open to the interpretation of the county board chair regarding endeavoring to evenly apportion members. There is no metric by which one can clearly depict what evenly apportioned should mean, although Daniel Siegmann attempts to do so in his own opinion which if he were elected as county board chair, he would be able to use the metrics that he established. With the county board rules using the word endeavor and that being a subjective statement, the authors of that resolution clearly did understand that it would be impossible for two different people of two different backgrounds to agree on the meaning of evenly apportioned. As such, I have no way to prove that any violation of law occurred by the county board chair in his selection of committee assignments.

Furthermore, when a vote was called by the chair to confirm the committee appointments on a voice vote, there were no nay votes audibly heard on the recording of the meeting. There were certainly questions after the vote was called and the votes cast, but there were no verbal nays cast that I was able to hear.

As a result of this information, I find that no violation of law, rule, or procedure can be proven in this first complaint.

## REVIEW OF COMPLAINT #2

In review of the second complaint, I was unable to locate a state statute governing what is or is not debatable. I did note that Wisconsin's Open Meetings law as defined in 19.81-19.98 does not cover procedures of meetings as it relates to what is and is not debatable. The Open Meetings law is more narrowly focused on proper notice of meetings and proper access to governmental operations by the public. In the absence of a state statute governing county board procedure, I turned to the Dodge County Board Rules in Resolution #21-95 and I found the following applicable rules.

Rule #1 indicates in part that "The Chairman of the Dodge County Board of Supervisors shall preside over all meetings of the board, and is authorized to resolve disputes between standing committees."

Rule #2 indicates in part that "All questions shall be determined by a majority of the supervisors present unless otherwise provided by a statute or rule of parliamentary procedure as laid out in Robert's Rules of Order or a Rule of Order Governing The County Board of Supervisors of Dodge County, WI."

Rule #17 indicates that, "The rules of parliamentary procedure as laid down in Robert's Rules of Order shall govern the proceedings of the Board."

Rule #44 indicates "44. The Board Chairman, the Board Vice-Chairman, and the Board and Vice-Chairman shall have no powers other than: 1. Provide leadership to the Board; 2. Ensuring proper information to the Board; 3. Planning and conducting Board meetings effectively; 4. Meeting management; 5. All rights granted under Rule I; 6. Committee assignments as indicated by Rule 33, and 7. All powers granted by resolution, ordinance, statute, and emergency powers. All actions and determinations shall be taken by a quorum of the County Board or a quorum of a Committee."

As to the complaint about item #1 of the Special Orders of Business being debatable, I turned to Roberts Rules of Order, Newly Revised, 12th Edition. This is from my understanding the most recent edition of Robert's Rules of Order. Under chapter 2, subsection 3:21 motions, it states "Motions. Business is brought before an assembly by the motion of a member. A motion may itself bring its subject to the assembly's attention, or the motion may follow upon the presentation of a report or other communication." Furthermore, section 3:30 under the heading, "Obtaining and Assigning the Floor" indicates, "Before a member in an assembly can make a motion or speak in debate - the parliamentary name given to any form of discussion of the merits of a motion - he must obtain the floor; this is, he must be recognized by the chair as having the exclusive right to be heard at that time. The chair must recognize any member who seeks the floor while entitled to it." The section goes on to explain how one goes about claiming the floor.

A review of the video clearly shows that the agenda item in question was brought to the floor by a motion and a second was received for that motion. While a request to speak was logged on the county board electronic system, that request to speak was not recognized and did not even appear to be seen by the chair. It is clear that a supervisor must obtain the floor and must be recognized by the chair as required in Robert's Rules of Order. Robert's Rules of Order does allow a member of the board to verbalize to gain the attention of the chair under section 3:31, but no verbal request was made. I would note that Robert's Rules of Order does lay out in section 4:25-4:34 that a chair may ask for debate and debate might be allowable as part of the process.

However, it is important to note that Robert's Rules of Order section 50:13(c) specifically outline the process of Nominations by the Chair (with confirmation by voice vote). That procedure is as follows:

Nominations by the chair (with confirmation by voice vote). This process is used when the assembly wishes to take advantage of the chairs knowledge and judgment as to suitable appointees, yet wishes to have veto power. In this case, the chair names the same number of persons as there are two members of the committee, always naming his choice of committee chairman first, thus: "The chair nominates Mr. X as chairman, Mrs. Y, and Mr. Z. The question is: Shall these persons constitute the committee?" Any member can then move to strike out one or more names, but not to insert new ones, which the chair must do if such a motion to strike out is adopted. After any changes in the original names have thus been made, the chair repeats the proposed names as they stand and puts the question on the entire list; "Mr. X, Mrs. Y and Mr. W are nominated. Those in favor of these persons constituting the committee, say aye. ...Those opposed say no. ..., etc."

Nowhere in this section does Robert's Rules of Order call for debate in the process of nominations by the chair. The only allowable action is for the board in this instance is to strike a name.

Furthermore, in the incident detailed above, following the question being called and voted on, Supervisor Daniel Siegmann does ask if the item is debatable. The chair rules at that time that the question was not debatable. If Supervisor Daniel Siegmann felt that this ruling was inappropriate, he should have made a motion for appeal under Robert's Rules of Order section 24:1 which states:

By electing a presiding officer, the assembly delegates to him the authority and duty to make necessary rulings on questions of parliamentary law. But any two members have the right to appeal from his decision on such a question. By one member making (or "taking") the appeal and another seconding it, the question is taken from the chair and vested in the assembly for final decision.

Section 24:2 goes on to state:

Members have no right to criticize a ruling of the chair unless they appeal from his decision.

In Daniel Siegmann's complaint, it cites Robert's Rules of Order regarding a motion to ratify being

debatable to which Roberts Rules of Order does indicate. However, I believe given section 50:13(c) lays out a different procedure for the confirmation of committee nominations the question of if this particular procedure is open to debate, in and of itself is debatable. Regardless, under 24.2 of Robert's Rules of Order indicates that members have no right to criticize a ruling of the chair unless they appeal from his decision. Section 24:8 indicate that the appeal must occur at the time of the ruling by the chair, which did not occur. For clarification, Daniel Siegmann cites the 11th Edition of Robert's Rules of Order. All citations in this report are using the 12th and latest edition.

As a result of the above listed information, I have found that no law, county board rule, or procedure in Robert's Rules of Order have been violated related to complaint #2. The only argument which could be made is in regard to if debate should have been offered. However, in light of section 50:13(c), it appears that debate is not part of the process for nominations by the chair, in this case confirmation of committees. Additionally, it seems clear that given this information, there is no action by which Kimberly Nass provided illegal advice to the chair.

### REVIEW OF COMPLAINT #3

A review of the third complaint seems to be contradictory to complaint #2 which implied that debate should have been allowed and a request for debate took place after the question was called and after another comment was taken by the chair after the question was called. However, after reviewing the incident, I find no procedure indicating that an item cannot be discussed during the same meeting after a vote has been taken. Furthermore, the commentary that took place between Chairman David Frohling and Supervisor Robert Boelk was clearly clarification type questions and was not debate. Clarifying questions were asked of the chair and the chair responded to those questions with answers. I am unable to find any law, county board rule or procedure in Robert's Rules of Order, that was violated. I will note that there was a conversation between Robert Boelk and David Frohling regarding an appointment to the Inter-County Coordinating Committee. In this conversation it is clear that there was a miscommunication regarding Robert Boelk's availability for this committee assignment. At the end of the interaction David Frohling states, "I thought you were not available at that time, but, if you're available, you will be appointed to go to that meeting." That in and of itself was not a new appointment to the committee as a change has not taken place and no appointment has been brought back before the county board for confirmation in subsequent meetings.

### CONVERSATION WITH KIMBERLY NASS (CORPORATION COUNSEL)

Subsequent to receiving this complaint, I spoke with Kimberly Nass about the complaint that was received. I asked her if she had provided guidance to the county board chair regarding if the confirmation of appointments was debatable or not. She told me she wrote up notes regarding possible action that the board could have taken regarding amending a motion, improper motions, appeals, dividing the question, or ruling motions out of order that are dilatory. She provided me with those notes, which are included with this case. She told me she did not tell Chairman David Frohling that the questions was not debatable, but did provide him with verbal guidance on agenda item. The notes provided to me are attached as "NOTES FROM KIM NASS AND REBERTS RULES OF ORDER - ATTACHEMENT FROM EMAIL.PDF"

### CONVERSATION WITH CHAIRMAN DAVID FROHLING

I spoke with Chairman David Frohling and I asked him about the meeting. I asked him if he had made any subsequent appointments contrary to the appointments which were brought before the county board on the night of May 17, 2022 at the county board meeting. He told me that he had not made any changes. I asked him if he did make any changes, if he would bring them to the board for confirmation. He told me he would, but likely would not be making alternate appointments at that time. I asked him if Robert Boelk had been assigned to the Inter-County Coordinating Committee and he told me he had not made a change and Andrew Johnson is on that committee.

### CONTACT WITH COUNTY CLERK'S OFFICE

I made contact with County Clerk Karen Gibson requesting the Inter-County Coordinating Committee By-Laws. On June 13, 2022 I received an email from her, which is attached ("061322 EMAIL FROM KAREN GIBSON WITH ICCB BYLAWS.PDF"), along with the attachment to that email ("BY LAWS OF INTER-COUNTY COORDINATING COMMITTEE.PDF"). This information was obtained to view the

responsibilities of the county board chair in making appointments to that committee.

On July 14, 2022 I made contact with Deputy Clerk Danielle Van Egtern, who informed me that the agenda was posted on May 11, 2022 at 9:27 a.m. It was posted online and in the lobby of the administration building. I have attached the May 17, 2022 County Board Agenda, County Board Packet, and County Board Minutes to this report. (CB\_AGENDA\_05172022.PDF, CB\_PACKET\_05172022.PDF, CB\_MINUTES\_05172022.PDF)

#### CONTACT WITH DISTRICT ATTORNEY

I spoke with the Dodge County District Attorney Kurt Klomberg, who expressed concerns to me about the manner in which the complaint was filed using his name on the top of the complaint giving the appearance that the complaint came from him. To be clear, this investigation does not address any concerns raised surrounding this issue and the district attorney was asked to contact me with a specific complaint regarding if he had other concerns to be investigated. If a separate complaint is requested, that will be done outside of the original investigation. A copy of an email the district attorney sent to Daniel Siegmann is attached to this report dated June 8, 2022 and is titled "OPEN MEETINGS ALLEGATION RECEIVED TODAY".

#### DISPOSITION

After a review of this incident, I am not able to identify any violations of law, rule, or procedure rising to level of criminal activity. Specifically, the complaint sites Wisconsin Statutes 19.83 and 19.84 as being violated.

When reviewing chapter 19.83 of Wisconsin Statutes, it addresses "Meetings of governmental bodies". It dictates that every meeting of a governmental body shall be preceded by public notice and shall be held in open session. Through this investigation, I find no evidence to support that anything happened contrary to this statute.

When reviewing chapter 19.84 of Wisconsin Statutes it addresses "Public Notice" of meetings in detail, I again have found no evidence supporting that proper public notice was not given. The meeting was noticed properly as it was posted online and in the lobby of the administration building as required by law. In reviewing the complaint, it has been determined that all discussion regarding the issues raised in the complaint fall under item #6 Special Order of Business, subpoint #1 Confirm County Board Committee Appointments for 2022-2024 and regardless of when the agenda item was discussed, it was properly noticed for discussion.

I will be forwarding this report to the Dodge County District Attorney's Office so they may further review the incident. No further action will be taken by this agency at this time.

END OF REPORT

## Supplemental Narrative

07/19/2022 18:34:54 DALE SCHMIDT DOSO

\*\*\*SUPP #1 BY SHERIFF DALE SCHMIDT #101/djd\*\*\*

JULY 19, 2022 COUNTY BOARD MEETING

I, Sheriff Dale Schmidt, noted that the agenda for the July 19, 2022 Dodge County Board Meeting included an agenda item regarding the replacement of Supervisor Andrew Johnson with Supervisor Daniel Boelk on the Inter-County Coordinating Committee. That agenda has been included with this case file and the agenda item listed as follows:

6. Special Order of Business
  - \* Confirm Appointment by County Board Chairman



o Appoint Supervisor Boelk to replace Supervisor Johnson on the Inter-County Coordinating Committee

I attended this county board meeting and recorded this agenda item on my WatchGuard body camera. That video will be uploaded to the Dodge County Sheriff's Office video evidence server.

The chair called special order of business. A motion was made to confirm the appointment by Supervisor Jeff Caine and that motion was seconded by Supervisor Dennis Schmidt. The chair called the questions by voice vote and the motion passed without a nay vote cast. There were no persons who requested to speak during this order of business. Once the voice vote occurred, the county board moved on to other business.

#### DISPOSITION

This action confirms that in the May 17, 2022 meeting, no action was taken to change the appointments brought before the Dodge County Board of Supervisors at that meeting until this action took place at the July 19, 2022 meeting and further illustrates that no violation of law or procedure occurred related to issue # 3 which was brought by Supervisor Daniel Siegmann.

I have recorded this short item of business on my WatchGuard body camera and it has been downloaded to the Dodge County Sheriff's Office video evidence server.

END OF REPORT

## Supplemental Narrative

08/16/2022 13:14:48 DALE SCHMIDT DOSO

\*\*\*SUPP #2 BY SHERIFF DALE SCHMIDT #101/djd\*\*\*

On Monday, August 15, 2022, I, Sheriff Dale Schmidt, received an email from the Green Lake County District Attorney's Office with a letter from District Attorney Gerise LaSpisa, who was assigned as the special prosecutor in this case. In her letter, DA LaSpisa indicates that she does not find evidence to support a violation of the Wisconsin Open Meetings laws. Her letter is attached with this case.

This case is closed with no further action to be taken.

END OF REPORT