

# Sunshine Week 2021

## The Lakeland Times' and Northwoods River News' open records grades

In honor of Sunshine Week — a celebration and advocacy of open government — *The Lakeland Times* presents the newspaper's 2021 awards and grades for openness in conducting public business.

The following grades are calculated using several measures, including how responsive officials have been this past year to open records' requests, how diligently they have strived to keep the workings of government open, how willing they were to communicate with the media and with the public, as well as their past track record.

The rating scale:

**A** — Excellent. Passionately committed to open government and accountability. The public is lucky to have these officials. They have full knowledge of the open records' and open meetings' laws.

**B** — Good. These records' custodians do an above-average job. They may need more knowledge and education about the law but are committed in principle to openness and side more often than not with open-records' advocates.

**C** — Average. These custodians need more immediate education about open govern-

ment laws. They tend to respond slowly to records' requests, and they are as likely to withhold information as to release it. Still, these officials have never landed in court over an open records' dispute.

**D** — Below Average. These custodians do not believe in open government or in the release of open records. They usually land on the side of secrecy. These officials are suspicious of the public. They have very little knowledge of the open records' and open meetings' laws, and have even less interest in learning about them.

**F** — Failure. These people should be removed as records' custodians. They cannot be trusted by the public and couldn't spell FREEDOM if you spotted them F-R-E-E\_-O-M.

Consider them wanted posters in the post office of public records.

**I** — Incomplete. While it is too early to rate an overall performance in their current positions, we will record any recent actions and use their track records to calculate a "trending" rank.

## LIFETIME ACHIEVEMENT

**Vilas County circuit court judge Neal A. "Chip" Nielsen**

Over the past several years, we have encountered no significant new rulings on open records or open meetings by Vilas County



circuit court judge Neal A. "Chip" Nielsen.

Nonetheless, we award the judge with an A+ and the only public official to earn a Lifetime Achievement Award because of a body of accumulated work that has strengthened open government and transparency in Wisconsin.

If judge Nielsen never makes another ruling related to open government, it wouldn't matter because

the man has made his mark. He has a set a high bar that all judges should attempt to at-



Nielsen

of government to examine the workings of those branches and to inform the public of matters that are of importance to ensure that the government works as intended and that the rights and indeed the best interests of its citizens are respected and promoted."

Well said and well done, judge Nielsen. The citizens of Wisconsin salute you.

# A+

## Best of the best

**Oneida County sheriff Grady Hartman**

Our top award this year goes again to

Oneida County sheriff Grady Hartman, and the tally isn't really close.

Mr. Hartman's actions as sheriff — as well as the conduct of chief



Hartman

deputy Dan Hess and the entire department (see below) — to open up government and take open government laws seriously could be transformative, not merely for Oneida County but for the entire state.

The truth is, sheriff Hartman got off to a rough start in our grades. But his grades steadily improved, and now the sheriff is the most outspoken and accomplished advocate for open government in Oneida County, and one of the best advocates statewide.

Last year, we recounted the sheriff's department's 2019 raid on Rhinelander City Hall prompted by an open records complaint filed by the Northwoods River News. We called it a courageous action to defend the integrity of our democratic institutions, and it was.

The outcome of that case — a deferred prosecution that lets former Rhinelander city administrator Daniel Guild off the hook if he doesn't break any criminal laws for three months — was not what transparency advocates wanted for what was

See **Grades**. . . page 19

**ONEIDA**  
ROOF AND CHIMNEY  
FULL SERVICE PROVIDER FOR ALL YOUR  
STEEP AND FLAT ROOF APPLICATIONS  
• Reliable - Three generations of professional roofing contractors

## Grades

From page 3

clearly outrageous conduct, but the outcome itself was not what was important.

What is important is that, when probable cause that a crime had been committed presented itself, the sheriff's department acted to find out if that was the case, to enforce the open government laws that might have been broken. That's a rarity in this age, and a welcome one.

This year, the sheriff continued to make his mark for open government in the county when he agreed with the county code provision requiring department staff to route any questionable emails, or ones with redactions, through the corporation counsel's office was illegal. That provision has been jettisoned, and, in meetings to reform the county's open records laws, Hartman was a vocal advocate for openness who did not hesitate to disagree with outside counsel's take on code provisions.

The bottom line is, Hartman had a forceful impact on the modification of the county's open records code provisions (basically deleting most of them and opting instead to follow state law). It's anybody's guess whether the sheriff will actually follow its new code — it didn't follow the old one — but Hartman did his part and more to craft a pro-transparency ordinance.

### Chief deputy Dan Hess, support services administrator Jill Butzlaff, and the rest of the sheriff's department

Sheriff Hartman deserves individual notice, but we can't give accolades to Hartman without awarding them also to chief deputy Dan Hess, support services administrator Jill Butzlaff, and the rest of the departmental staff who help process records requests.

During this year's rewrite of the county's open records ordinance, it became clear that Hess makes sure that he and his staff keep up to date on open records trends, training, policy, and statutory changes. He also explained how the department engaged records requesters through constant communications, advising them of the progress of a request or discussing and resolving questions about a request.

Such communication is vital in the modern age, and the sheriff's department's template for responding to and processing records requests should be copied by every county agency.

There is no need to reinvent the wheel. Dan Hess and company are driving a model open records vehicle that is solid and transparent. The rest of the county should get in the same lane and follow along.

### St. Germain Town Board

As transparency and openness go, local government doesn't get much better than it is in St. Germain. The town board has earned its second "A+" in two years.

All supervisors — as well as the clerk and treasurer —

have been consistent, fast, and thorough in replying to information requests from *The Lakeland Times*. Phone calls are usually returned within an hour and documents are usually turned over before the end of the same business day. Several supervisors have been willing to take press calls at their places of employment during business hours.

The town board of St. Germain allows public participation well beyond the requirements of state statute. During meetings, audience members are permitted to ask questions and raise concerns after each agenda item is discussed by the board and before motions are made. This allows citizens a level of access not afforded in most government venues.

St. Germain also acted quickly to adapt technologically when the COVID-19 pandemic first struck. While the initial few meetings conducted via Zoom were sometimes glitchy, the board learned how to deal with problems on-the-fly and were able to overcome them. They also recognized virtual meetings would become the norm for the future, whether there were pandemic conditions or not. The town invested early in a full Zoom-Room platform, which has been in service for several months. This action put the board ahead of most other governmental bodies in the region. It also made access and participation that much easier for those who cannot attend meetings in-person. Citizens can now question — from home, the hospital, or the other side of the earth — the board as it does business in real-time. George Orwell might approve: in this case, the people use Big Brother to watch their government, not the other way around.

"Open government with heavy public participation" can also translate into "meetings in excess of three hours, tabled agenda items, and the need to call a lot of special meetings," but in order for decisions to be made with public scrutiny and input, an exceptional amount of time must be invested. The supervisors, clerk, and treasurer of St. Germain are all heavily invested. That's good, old-fashioned public servitude on their parts.

St. Germain is also more likely to take matters to a public vote than most municipalities are. The board often turns to referendum questions or electors' votes on matters they have the authority to decide for themselves, especially in cases that will affect the tax levy.

For the second year in a row, no voter in St. Germain can say "My town government blindsided me with a surprise!" Anyone who does simply wasn't paying attention.

### SPECIAL MENTION

should go to chairman Tom Christensen. In August 2019, he took the unusual step of limiting the power of his own office. He spearheaded the adoption of an ordinance which stripped the town chairman of the power to set agendas without oversight. Christensen felt this discretionary power had

been abused by a past chairman and should be checked. "I believe ... the agenda should be open to anyone's reasonable wish to discuss town business," he said.

This year, Christensen remained consistent in his commitment to open government. In February, options were discussed in the interest of shorter-length meetings for the board. It was suggested to Christensen he could limit discussion/action items on each agenda to 15 topics. He replied "I'm not particularly interested in doing it that way. Because once I have done it that way, I'm arbitrarily bumping things off (the agenda)." When it comes to investing his time in the interest of open government, Mr. Christensen puts his money where his mouth is.

### Vilas County clerk Dave Alleman and finance director Jason Hilger

Alleman has been Vilas County clerk as well as administrative coordinator since 2007 and over time, has established himself, along with Vilas County corporation counsel Jack Albert, as one of those people county board chairpersons and the chairpersons of the county's different committees look to for guidance when it comes to meeting procedures.

More specifically, when it comes to his dealings with *The Lakeland Times*, Alleman has been very good to work with from an open records/open meetings standpoint: at one point during 2020, the *Times* submitted an open records request to Vilas County, seeking emails from county board chairman Ron DeBruyne.

That request was fulfilled in mere days by Alleman, in contrast to the weeks it took for the newspaper to receive from former Oneida County corporation counsel Brian Desmond redacted emails of Oneida County board chairman Dave Hintz.

We were running a comparison and Vilas County, Alleman and DeBruyne in this instance, passed with flying colors.

Hilger, first hired by Vilas County as its first ever finance director in 2012, is currently in the process of transitioning from that position to that of Langlade County administrator, having formally made the career change public knowledge at the February Vilas County board meeting.

During his tenure as finance director, he earned the nickname "Dr. No" in certain circles, especially around the time he worked with department heads putting together the annual county budget.

Hilger has also been historically fairly protective of the county's general fund, looking at other options to fund a program or project as opposed to dipping into the general fund to pay for a project.

Our dealings with him as a local media outlet have been very good and benefi-

cial for all involved, the most important being the general public.

We'll miss Hilger, we think Vilas County will, too, and we hope to have the same type of relationship with his successor.

### Minocqua town clerk Roben Haggart

Once again, Roben Haggart has demonstrated to us — and we believe the general public — what it is a good town clerk should be.

In addition to advising the town board when necessary, she has also been very good about answering and fulfilling our open records requests in a very timely manner.

A case in point would be emails and texts by town supervisors John Thompson and Brian Fricke around the time the decision was made by the town board following a Feb. 9 special meeting.

After the closed session, the decision was made to offer the Campanile Center's board of directors \$600,000 for the facility's parking lot. There were some walking quorum questions we had and the records Haggart provided, again in a timely fashion, when requested were very helpful.

### Oneida County Land and Water Conservation and UW-Extension committee

These two committees, with the majority of county supervisors on each committee, are run by Bob Mott. Mott has always seemed to be conscious of open meetings laws and, in fact, this year, rescheduled a meeting when it was found there was an issue with one of the virtual platforms by which the public could attend.

At any point Mott or any member of the committee or these departments has been contacted, they have been most gracious with providing needed information. If at any time a topic has come up in a meeting that is not directly related to an agenda item, that topic has been dismissed quickly or placed on a future agenda. Mott has also been diligent with explaining the process to members of the public who come to the meeting with a question or concern under the agenda item of "public comment," and has assured those individuals the item could be addressed, but that it would need to be done in accordance with open meetings laws.

### Vilas County Land and Water Conservation

This committee, chaired by county board supervisor Jay Verhulst, has been very diligent in matters of open meetings and open government. They have always been very forthcoming with any requests for information, as has the land and water conservation department as a whole. The meetings do not stray from the agenda and when a topic is brought up that might hit the fringes of an agenda item, but not address it specifically, it has always been dis-

missed or asked to be added to a future agenda. The committee has always supported their mission to help protect the land and water of Vilas County as well as always cooperating with any requests for information or clarification.

# A

## Excellent

### Minocqua town chairman Mark Hartzheim

Minocqua town chairman Mark Hartzheim is not the longest serving active town chairman of those towns *The Lakeland Times* covers regularly.

He's also, along with Arbor Vite's Frank Bauers, among those who knows how to run a town board meeting; his basic philosophy is to keep meeting length at not much more than an hour as people's attention begins to drift.

Hartzheim isn't always successful at doing that as there are some issues that arise from time to time that do need much in the way of thorough, open discussion and he's more than accommodating when that occurs, allowing plenty of opportunity for those to speak on an agenda item.

He'll do that even when the discussion on an item technically at some point in a meeting is between members of the town board.

As town chairman, though, that's Hartzheim's prerogative. It's his discretion.

We think maybe there are some others in the area could learn a few things from him in that regard.

There's another area we'd like to commend Hartzheim for and that's his response time to open records requests.

There have been a few times we've asked of him — and received from him in a very timely manner — emails, texts or other correspondence on items we've had questions about.

That sort of transparency is very much appreciated.

### Vilas County board chairman Ron DeBruyne

Last year, *The Lakeland Times* discovered when it comes to responses to open records requests, the difference in response time between Oneida and Vilas counties can be like night and day.

Case in point: after months of waiting for records from Oneida County, records consisting of emails that had been largely redacted, we asked Vilas County board chairman Ron DeBruyne for the same.

We wanted to see how Oneida County's neighbor and another of the county governments we cover on a regular basis would handle the same request.

DeBruyne responded immediately, having Vilas County clerk Dave Alleman send thousands of De-

# Grades

From page 19

Brayne's county related emails to the Times in less than 24 hours.

Unredacted. That's the sort of commitment to the public regarding transparency in government we like to see.

### Lac du Flambeau School Board

The Lac du Flambeau Public School board of education poses no concerns in regard to open government.

Documents made available to the board are also made available to the public, or are otherwise easy to obtain through district superintendent Larry Ouimet or administrative assistant, Sheila Dallas.

The board is open and communicative with the public and the media and allows for public comment on each agenda.

### Woodruff Town Board and Woodruff town clerk Julie Huotari

This year, the Woodruff Town Board raises no concerns regarding open meetings or open records issues.

The board is consistently available, cooperative, and compliant on occasions where *The Lakeland Times* has requested information.

In addition to having public comment as a regularly scheduled agenda item, the Woodruff Town Board permits guests to speak on each agenda item as the board goes through them.

### Arbor Vitae town clerk Mary Reuland, Lake Tomahawk town clerk Sharon Trimberger Lireure, Manitowish Waters town clerk/treasurer Dana Hilbert, Presque Isle town clerk Lorine Walters, Plum Lake town clerk/treasurer Sharon Brooker, Winchester town clerk Joan Wainio and Boulder Junction town clerk Dan Driscoll.

Each one of these individuals in these Vilas County towns covered by *The Lakeland Times* does a nice job of working with their respective town chairmen to keep meetings on track and they're very cooperative, we've found, with information requests as well.

### MHLT/North Lakeland school districts

Dr. Jim Ellis, the administrator for the Minocqua Hazelhurst Lake Tomahawk school district, along with MHLT school board secretary Carol Melms, do a nice job of getting meeting notices published and posted and also are very good about responding to media queries when those are filed.

At the North Lakeland School District, administrator Brent Jelinski and his staff likewise, even in the middle of a pandemic, have been very accommodating.

### School District of Rhinelander

In the run-up to and during the construction of the \$8.7 million Hodag Dome, the district's capital projects ad hoc committee and the full school board were open and transparent about the process. Meetings were open to the public and questions were answered

promptly. In addition, new superintendent Eric Burke found himself running the anchor leg of the relay to finish the Dome while dealing with the COVID-19 pandemic. Over the course of this first year, Burke has been accessible to media questions and forthright with answers. This continues the district's positive trend in terms of transparency in recent years. We would suggest, however, that the district use more specific language on its agendas when referring to possible topics for closed session.

### Oneida County Planning and Development Committee

This past year, the committee — whose members are supervisors Scott Holewinski, Jack Sorensen, Ted Cushing, Bob Almekinder, and Mike Timmons — continued their long history of being extraordinarily transparent with the media and the public.

This became especially apparent early this year when a stealth committee emerged from the weeds, having written a proposed shoreland ordinance change with the DNR. This "team" worked with the agency, they worked with zoning staff, they worked with the corporation counsel — seemingly they worked with everybody but the actual zoning committee, which not only oversees the enforcement of the ordinances and any amendments to it but serves as the public's portal to ordinance oversight and enforcement. The goal of the rewrite was to ram through DNR re-interpretations of shoreland law and rules, even though that law and those rules haven't changed.

The committee — especially committee chairman Scott Holewinski and supervisor Mike Timmons — stood up for the public's right to know. Instead of shepherding through partisan machinations, the committee demanded transparency, summoned the DNR to the table (the DNR refused but that's another story), and they have asked lawmakers to intervene.

In other words, they are demanding a transparent and deliberative process that involves the public and the public's elected representatives.

As Mr. Holewinski pointed out, overseeing an ordinance rewrite isn't about coming up with what bureaucrats or special interests write in private, and then holding one public hearing, hoping no one will notice; it's about involving the public from the beginning, from need to deliberation to final product.

Kudos to Mr. Holewinski and Mr. Timmons for their due diligence.

### Supervisors Scott Holewinski, Jack Sorensen, and Bill Liebert

Holewinski, Sorensen, and Liebert deserve high grades for their individual records this past year. We've recounted Holewinski's leading role in keeping Oneida County zoning transparent, and later we detail

similar efforts made by Sorensen to keep due process and transparency in the forestry department and within the forestry committee.

But all three supervisors made a special effort this year to object to Dave Hintz's bid to move the county board into closed session to discuss open government issues. Yes, that's right, Hintz wanted to discuss in secret the county's ongoing problems with secrecy, which, in a nutshell, summarizes that problem. And while much of Hintz's government this past year has resembled a Fellini movie — full of carnivalesque characters and good natured fools, to cite one description of Fellini's work — these three supervisors offered a voice of sanity and realism, and kept transparency issues in the open.

### Oneida County clerk Tracy Hartman

As Oneida County clerk, Tracy Hartman runs an efficient and open office. She provides records without hesitation, except for finding her due diligence to find out what information is releasable and what is not.

And not only does Ms. Hartman fulfill records requests with information she has, she often offers up helpful tips and suggestions about where to find requested information that she doesn't have. That's not just a fellow traveler when it comes to transparency, not just a tag-along, that's a friend of open government, a Good Samaritan ready to extend a helping hand when she can.

It's rare in the modern age, but here's a public servant who actually seeks to serve the public instead of a personal agenda.

### State Rep. Rob Swearingen

State Rep. Rob Swearingen (R-Rhinelander) wins a great grade this year for both walking the walk and talking the talk on open government.



Swearingen

First, the actions. Last year, a request for one month of emails from Swearingen was filled the same day that Swearingen received the request. The representative's office released 293 pages of unredacted emails within hours of receiving the request. Compare that to Oneida County public health director Linda Conlon's inability or unwillingness to fulfill a similar request after 10 months.

In addition, in our talks with Swearingen this year, the lawmaker has exhibited a new-found appreciation for the importance of open government. He has already acted on that appreciation this year, opposing a renewed and short-sighted effort by mostly downstate Republicans to kill a requirement that city councils and the boards of villages, counties, school districts, and technical college districts publish their meeting proceedings in their local official newspapers.

For reasons explained

elsewhere in this edition, ending that requirement will further disconnect citizens from their government, and plunge the state deeper into darkness.

In previous years, too, Rep. Swearingen and his office have always been completely transparent when we have made requests of them. He has also always provided the media with easy access. We think he has come a long way as an advocate for openness, and his rise to the top of our grades is well-deserved.

### State Sen Chris Larson

State Sen. Chris Larson, a Democrat from Milwaukee, earns a top grade this year for consistently pushing to get the Legislature to apply the state's open records retention law to itself.



Larson

Right now, most government officials and bodies must retain records for seven years, but lawmakers can trash their records any time they want. It's outrageous, a temptation to corruption, and it should not stand. Year after year, Larson tries to have the exemption repealed, and he does so without also engaging in any of the other open government atrocities that his colleagues in both parties like so much.

Larson's push to repeal the Legislature's exemption from open government laws won't succeed any time soon, but at least he keeps the issue on the table and in front of the public.

# B Good

### Arbor Vitae-Woodruff Elementary School Board of Education

The Arbor Vitae-Woodruff Elementary School Board of Education poses no concerns in regard to open government.

With the board's contact information easily available on the district's website, there are no apparent issues with connecting with, or communicating with, the school board.

Documents made available to the board, or discussed during open session, are made available to the public or are otherwise easy to obtain through district administrator Jocelyn Smith.

### LUHS School Board

For the most part, the Lakeland Union High School Board of Education does not pose significant concerns in regard to adhering to open meetings law.

Board members' contact information is readily available on the district's website and board members are responsive in a prompt and

timely manner.

Documents made available to the board are often available to the media, or are otherwise accessible through administrative assistant Lisa Kennedy.

While there have been delays in open records requests in the past, the most recent open records request was fulfilled promptly.

### Vilas County sheriff Joe Fath

Over the course of the past year, our dealings with the Vilas County Sheriff's Office and Sheriff Joe Fath have been satisfactory overall, with the exception maybe of their reduction of the age of adults on state accident reports.



Fath

The Vilas County Sheriff's Office is the only law enforcement agency *The Lakeland Times* deals with on a regular basis that redacts state accident reports in that manner.

We've been assured that issue will be addressed.

The VCSO has also been good about getting those accident reports to us, as are most law enforcement agencies we deal with, although, like most other law enforcement agencies we deal with, it would be nice to get those reports sooner than the 10 day window provided to them by state law.

But, that's our problem, really, as we publish just a couple times a week. We're just like to have the reports a little sooner than the 10 days.

As of this writing, we're waiting to hear from Fath on an open records request filed earlier in March regarding the death of Donna Christensen, a 20 year old Lac du Flambeau woman who was found dead in her cell at the Vilas County jail on Oct. 26, 2020.

Her mother filed a wrongful death claim that was denied on March 8 by the Vilas County board's executive and legislative committee.

In addition to Fath, open records requests regarding the Christensen death were also filed with the Wisconsin Department of Corrections.

Hopefully, we'll get the information we requested from all parties involved and especially Joe Fath.

### Oneida County district attorney Michael Schiek

Through the years, we have not always seen eye-to-eye with Schiek on matters of open government.



Schiek

We particularly took issue with his decision not to prosecute four alderman and the Rhinelander mayor for participating in a walking quorum, a case that is still in the courts.

However, the district attorney did prosecute a case against Daniel Guild for misconduct in public office related to public records.

## Grades

From page 20

Ultimately, Mr. Guild entered into a deferred prosecution, meaning the charge will be dropped with prejudice if he stays out of trouble for three months, but the outcome isn't as important as the attempt to seriously prosecute a public official for breaking open government law when there was reasonable evidence the law has been broken.

We hope Schiek continues to embrace this willingness to prosecute those who don't think transparency laws are a big deal. Doing so consistently will send a huge message to would-be lawbreakers and could significantly strengthen open government at the grassroots level.

### Attorney general Josh Kaul

Attorney general Josh Kaul wasn't too active on the open government front this past year, but early on the attorney general reminded local governments of their obligations under the open meetings laws during the Covid-19 pandemic. While there could be flexibility, such as teleconferencing, the laws must be maintained during the pandemic, Kaul cautioned, and the public must be allowed to participate.

Other than that, Kaul hasn't made too much of a record one way or another when it comes to open government. He certainly hasn't been as vocal as his predecessors. That doesn't make him bad, but we give him a 'B' because he could be a little more dynamic and assertive in countering closed government trends in the state.

Sitting around clapping and cheerleading every once in a while only goes so far.

### Oneida county supervisor Billy Fried

This past year, Mr. Fried, who is a likely contender to be county board chairman in the wake of Dave Hintz's pandemic-sized failures this past year, became a positive voice for open government in many respects. For instance, he supported the reform of the county's public records ordinance to get it more in sync with state statutes, mainly by dropping the county ordinance and following state law.

That right there makes him an above-average public official. He doesn't quite get to excellent, though, because his grasp of the open processes required in democratic governance is still incomplete. Most recently, he apparently helped devise an emergency procedure that would allow the county board chairman to bypass the county board to approve "emergency" requests — such as increased staffing levels — for the public health department during the pandemic.

Under the procedure, the county board has no say in

the matter, even after the fact.

Suspending democratic governance is troublesome any time it occurs — our constitution was crafted as a guide for troublesome times — and it is even more so at a time when the pandemic is fading and businesses and people are moving again to normalcy.

Oneida County government should be doing likewise, not going in the opposite direction, and, as a force on the county board, Mr. Fried needs to help make it so, not dabbling in the shadows with the public health department.

### Vilas Forestry, Land and Recreation Committee

Overall, this committee, chaired by county board supervisor Holly Tomlanovich would receive a higher mark. However, the issue of the parks and recreation position change vacated by Dale Mayo's retirement seemed, even to some committee members, to be less than transparent. Later, once the position was created, some also questioned whether the change in name of that position, once approved, was in conflict with the decision made by the county board in the creation of the position.

However, any time Tomlanovich, members of the committee, or the department itself, have been approached for information, that information has been given freely. In particular, county forester Al Murray and administrative assistant Kelly Tyler have been very helpful and forthcoming with any and all information related to issues with the department and committee meetings.

## B-

## Better than average

### City of Rhineland

A lot of things have changed over the last year at Rhineland City Hall and there are signs that elected officials and others have learned from the mistakes of the past and are working to ensure city government is more transparent moving forward. Most importantly, new city administrator Zach Vruwink seems to be setting the right tone. Thus far, he has addressed questions promptly and provided clear and complete responses.

Meeting agendas are released well ahead of the meetings themselves, a major improvement from the days when the council agenda would not be released until the few hours of the weekend before the meeting was to be held. As a result, the meetings seem to run more smoothly. The alderpersons have more time to study their packets and thus ask more cogent questions. Also refreshing is the cooperative energy in

the City Council chambers. After years of fractious discourse, and even open hostility between members, the alderpersons address each other in a respectful manner and mostly stay on topic. The occasional, mostly awkward attempts at humor (the Magic 8-Ball incident is one example) could be jettisoned, however, as they take away from the seriousness of the council's task of leading the city through a pandemic.

We're also hopeful the days of alderpersons trying to "police" each other are over and any instinct to meet privately rather than address a concern head-on, at a publicly noticed meeting, will be suppressed.

As the city now has a human resources director in Doreen St. Onge, we also expect we will never again be told a personnel file has somehow disappeared from City Hall.

That said, we do have some concerns. The city could do better in confirming receipt of new requests and/or questions. A week should not pass without so much as an email from a records custodian confirming receipt of a request.

Also, for a time there appeared to be something of a public relations campaign focused on convincing city residents that those who make open records requests are not acting in good faith in seeking information about important city issues but bad actors whose only goal is to harass city officials and drive up costs.

The fact of the matter is the city has endured a rather rocky stretch over the last several years, with municipal wells shuttered due to PFAS contamination and near-constant dissension within certain departments and among the alderpersons themselves. It should have come as no surprise to anyone that there would be questions and requests for records related to such matters. As a local media outlet, we would be derelict in our duty if we didn't ask questions and request records when wells are shut down and when the department tasked with completing public works projects is inundated with internal finger-pointing and claims of harassment.

Apparently, the city also has a history of storing records haphazardly in the basement of City Hall. Of course, the lack of a clear, organized system for filing records is going to result in city employees spending longer periods of time searching for a particular record. Placing blame on the requester for the time spent, as some have done, is rather like a child becoming angry at a parent for making him or her spend over an hour locating missing homework in a messy bedroom. If the child kept their room more orderly, the search would take less time. It's the child's lack of organization, not the parental request, that caused the task to take longer than expected. As the city has had ample time to accomplish this household task, we hope the messy room has been cleaned up and the complaints about searching the basement are a thing of the past.

While responding to records requests is undoubtedly challenging at times, and it's important that the public and/or media are as specific as possible when making requests, strict adherence to both the open records law (and the open meetings laws) is simply part of the job for those who seek public office (as well as for those who work in government) and no one can opt out.

Furthermore, complaining about an intrinsic part of a role that one chose for themselves is simply bad form.

Anyone who cannot understand this concept simply does not belong in public office.

## C

## Average

### Lac du Flambeau Town Board and Lac du Flambeau town clerk Nancy Edwards

In general, the Lac du Flambeau Town Board and clerk are accessible and compliant with providing information to *The Times* upon request.

The board also allows for public comment on agenda items and provides citizens the opportunity to comment on agenda items, or ask questions, as the board discusses them.

However, the board repeatedly postponed its 2020 annual meeting, citing COVID-19 concerns and tribal resolutions prohibiting large gatherings.

While surrounding towns went forward with their annual meetings, several making accommodations to account for the ongoing COVID-19 pandemic or even slightly delaying their annual meeting, the town of Lac du Flambeau is, to date, the only town *The Lakeland Times* regularly covers to not have held its 2020 annual meeting.

The town made plans at its most recent town board meeting to hold its 2020 annual meeting with contingencies in place if the town is unable to hold its meeting at its own town hall.

## D

## Meets few expectations

### Zoning director Karl Jennrich

Normally, Mr. Jennrich receives a great grade when it comes to openness. For years, he and his staff have responded adequately and quickly to open records requests, and they did so again in a very recent request related to a pro-



Jennrich

posed rewrite of the shoreland zoning ordinance. Mr. Jennrich has never followed the rest of the county sheep over the cliff when it came to the corporation counsel's nonsensical and irresponsible demands that all records must flow through him for approval before being released to the public.

But the aforementioned proposed rewrite of the zoning ordinance also leads to Mr. Jennrich's downgrade this year. As we have reported, Mr. Jennrich and his assistant director Pete Wegner participated in private meetings with the corporation counsel, Two Sisters Lake Association members, and the DNR — meetings designed to fashion a proposed ordinance rewrite. That they did so and knowingly kept the elected zoning committee in the dark is egregious and deserving of discipline.

For these grades, the concern is the lack of transparency. These seasoned veterans of zoning wars should have known how contentious any proposed rewrite would be, but, more than that, it was simply the right thing to do to give the committee a heads up about what they were doing, especially as a way to get the public involved.

They did not do so, and that is very disappointing. This is how bureaucrats in Madison normally operate, but Mr. Jennrich has not usually fallen into the group-think trap. This time he did.

## F

## The failures

### Oneida County forest director Paul Fiene, the forestry department, and most of the forestry committee

New Oneida County forest director Paul Fiene had a rough year and hard learning curve to endure, and at the end of the day we think he learned some pretty valuable lessons.

Still, he gets a cumulative failing grade, and so do all the members of the forestry committee except for committee chairman Jack Sorensen.

During the recent fiasco involving Bob Rynders, when the department tried to ban Rynders from doing trail work on county forest land forever, the forestry department, with Mr. Fiene in full participation, tried to engineer a coup d'état by damning Rynders to eternal hell before asking the elected forestry committee if that was a good idea.

If Fiene's role as Saint Peter, guarding the gates of the county forest paradise, was a bit over the top, the committee, minus Sorensen, jumped right on the bandwagon without notifying Rynders or giving him a chance to defend himself. It was a scene right out of a Salem witch trial.

Committee chairman Jack Sorensen, who was out for surgery during that debacle,

## Grades

From page 21

righted the ship later on, and Rynders was reinstated. With Sorensen's guidance, the forestry department also fulfilled our open records request on the matter in timely fashion.

So maybe the committee and the staff have learned their lessons. But it took Sorensen's intervention to restore due process, as well as accountability in the department.

We hope that trend continues, but, except for Sorensen, there seems to be little brain power and even less commitment to democracy at work in the county's forestry universe.

### Wisconsin Counties Association, Wisconsin Towns Association, Wisconsin League of Municipalities, Wisconsin Association of School Boards

We say it every year. If ever there were four organizations that should not exist, these are the four: Wisconsin Counties Association, Wisconsin Towns Association, Wisconsin League of Municipalities, and Wisconsin Association of School Boards.

For one thing, towns, villages, cities, and counties are all creatures of the state; their existence depends on laws enacted by the state. There are some home rule powers for cities and villages, but the main job of these units of government is to provide services and serve as administrative arms of the state.

So why do they need to form an interest group to lobby the state? As a creature and subordinate of the state, they should not be lobbying the state for anything, and, in doing so, they are in fact lobbying against the public interest.

As we pointed out last year, too, one thing they lobby for is more secretive government. These groups have all put great time and effort into various bids to end the requirement that public notices be published in newspapers, for instance.

On the federal level lobbying by government agencies is outlawed; these units of government are essentially state agencies by virtue of their relationship to state government, and they shouldn't be lobbying, either. When they do, they are almost certain not to lobby for the people so much as for the public officials themselves. That's why they formed an interest group for themselves, and that means they'll be lobbying for ever more secrecy, as they did with the public-notice legislation.

Even worse, the WCA has successfully challenged in court that the open-records laws doesn't apply to such entities as WTA and the WCA.

That is preposterous. As the lobbying and educational arms of government interests, these organizations are by definition conducting public business when they lobby for legislation supported by those local governments.

Any other interpretation renders the very notion of

public business superfluous and meaningless.

### The Wisconsin Supreme Court

The Wisconsin Supreme Court made no major ruling this past year involving open records or open meetings, and that's perhaps a good thing given its past record. As we reported last year, the Supreme Court decision file is full of awful decisions, from ruling the Department of Justice does not have to release videos of training sessions to deciding officials can delay the release of voter lists during open elections because those records could be used to harass eligible voters during those elections.

Both decisions suggested that the potential partisan motivations of requesters can be considered in an open records request, contrary to state law and the intent of that law, namely, that an open record is open to anyone and for any reason.

Until it shows otherwise, we continue to rate the Supreme Court a failure in government transparency and urge the Legislature to be vigilant, as the justices seem to be setting themselves up as a parallel government unto themselves, unaccountable to anyone.

### The U.S. Supreme Court

There's a whole lot of things we like about new U.S. Supreme Court justice Amy Coney Barrett, but so far her position on open government isn't one of them. In her first signed opinion on the court, Barrett recently squashed the Sierra Club's efforts to receive draft agenda reports about potential harm to endangered species.

Specifically, Barrett wrote for the 7-2 majority, the U.S. Fish and Wildlife Service did not have to provide the Sierra Club the guidance it gave the Environmental Protection Agency about a proposed rule regarding power plants that use water to cool their equipment.

What that means is that federal agencies don't have to release documents related to its internal deliberative process and its preliminary thinking.

Well, we wonder, as did justice Stephen Breyer in dissent, why not? Isn't it worthwhile for the public to see how the agency is operating, who it is consulting, and the evolution of its thinking, not to mention the influences put upon it?

More practically, the Sierra Club argued that the ruling will let agencies evade disclosure by stamping "draft" on internal records that would otherwise be subject to FOIA. Precisely.

This is the same kind of thinking that led former Gov. Scott Walker to shut off access to deliberative documents during his tenure. But those are precisely the documents that should be open — the ones that show the way an issue is considered and discussed, who advocates for what interests, and the movement toward resolution.

They are, put simply, a record of the daily workings of our government. How does it make sense to deny the public the right to see that record?

### Gov. Tony Evers

Gov. Tony Evers didn't initiate any new transgressions against open government in the past year, at least that we are aware of, but he kept riding the horses of previous transgressions well into this year, and the governor (and taxpayers) were on the losing end of two big gallops across Crazy Town.

In one lawsuit, in which Rep. John Nygren sued the Evers administration for denying a request for records related to farmer mental health initiatives, Evers surrendered last May, agreeing to hand over 10,000 pages of records and to have taxpayers pay \$40,000 in attorneys fees.

Then, in November, Evers lost a lawsuit in which he had refused to turn over even a day of his emails because they lacked having both a subject matter and a reasonable time frame, which the governor said was necessary under the law. In a bizarre argument in court, the governor argued that the statutory language that requires a request to have a reasonable time frame or subject matter somehow meant just the opposite, that 'or' really meant 'and.'

Needless to say, the judge was having none of this frivolity, and laughed the governor out of court. The governor did not appeal, but he still refuses to concede the merits of the case, exposing his contempt for public accountability.

As of this writing, another lawsuit filed by the MacIver Institute alleges that the Evers administration refused to give it the same access to email advisories and events that it gives to other news outlets. MacIver says that's a violation of the First and Fourth Amendments of the U.S. Constitution, and we agree.

Once again, Tony Evers is nothing less than Gov. Darkness.

### Judge Michael Bloom

As we reported last year, one of the most concerning developments in the arena of open government is the growing judicial activism in rewriting the state's open government laws. Last year, Oneida County circuit judge Michael Bloom engaged in that activism with an absurd ruling now under appeal.

Government business was also once understood by everyone to mean "discussion, decision or information gathering" about a matter over which the government had jurisdiction, but in his ruling, Bloom took it upon himself to rewrite the definition of government business to mean "discussion, decision or information gathering"—and here's his freelance addition—that ultimately requires a formal vote of the governmental body.

That's right, the judge ruled that, as long you don't take a vote, a government body just getting together to discuss government "topics" within its jurisdiction isn't government business at all and doesn't have to be no-



Evers

ted to the public.

If Bloom's absurd conclusion stands, then government business isn't really government business unless it involves a specific proposal requiring a vote by a governing body.

Case law and current practice beg to differ. Case law lays out what a meeting under the open meetings law is — there must be a purpose to engage in governmental business, be it discussion, decision or information gathering.

Mr. Bloom rewrites that to add the requirement of a formal vote, which we put in italics: "There must be a purpose to engage in governmental business, be it discussion, decision or information gathering that will ultimately require a formal vote of the governmental body in order to implement."

The problem is, that's not what the case law says, and it's not what the statute says, either. And the state Department of Justice even contradicts judge Bloom in its training sessions: "Conducting governmental business" is an expansive concept that is not limited to formal or final decision making," the DOJ training states.

In this decision, judge Bloom was simply out of his league. Or he arrived at his conclusion from the beginning and tried to find a way to justify it. That's how absurd conclusions happen.

His decision legitimizes walking quorums and encourages officials to avoid putting controversial topics on agendas for public discussion. In judge Bloom's world, the public is shut off from ever more discussion about government topics that affect them.

### The Wisconsin Legislature

As a whole, the Wisconsin Legislature is a miserable failure when it comes to transparency, and has been for many years. No matter which party is in control, the Legislature makes many promises of transparency but very seldom follows through.

For years we have pointed out the Legislature is not subject to the open records retention law, meaning they can destroy records any time they want. This past year Sen. Chris Larson once again introduced legislation to end this exemption, but it once again failed to see the light of day.

Various legislators have also continued a pattern of using every obstacle they can think of to thwart open records laws.

For example, until an appeals court ruled otherwise, lawmakers were refusing to release records in digital format, even when those records existed, driving up the costs of records requests for those asking for them and making requests more time-consuming and burdensome.

Then, too, this past year, the Legislature continued to refuse open records requests for the closed investigative records of lawmakers and legislative staff, including complaints, witness interviews, recordings, emails, disciplinary actions, and reports.

Reporter Amanda St. Hi-

laire of FOX6 in Milwaukee, who was denied such records by the chief clerks of the Senate and Assembly, asked all 132 lawmakers' offices how they felt about their investigative records being secret. According to FOX6, only 10 out of 132 responded, with seven declining comment and one senator, Fred Risser, (D-Madison), saying he trusted the chief clerk's judgment. No one advocated for a release of the records.

Unfortunately, not only is the Legislature unlikely to release investigative records any time soon or end its own exemption from records retention laws, it is marching in the opposite direction, toward more secrecy rather than less.

It's sad, but it's true.

### State Sen. Mary Felzkowski

It's hard to imagine a state lawmaker with a worse record on transparency than state Sen. Mary Felzkowski (R-Irma) because, well, there is no worse lawmaker. She is an embarrassment to the Northwoods and a disappointing successor to the seat once held by now U.S. Rep. Tom Tiffany.

Oh, how can we count the ways she tries to thwart the public's access to their government. She has championed efforts to essentially gut the state's online court records, and she has vocally called for increasing costs to records requesters, especially for newspapers "as a cost of doing business." Somehow Felzkowski misses the fact that taxpayers have already paid reasonable fees for the core functions of government, otherwise known as their taxes, and that open government should be seen by officials as the cost of doing the people's business, rather than the other way around.

She's been back at it again already this year, co-sponsoring legislation to end publication requirements for many local governments that right now must publish minutes of their meetings in local newspapers. Felzkowski simply doesn't believe that what government does is the public's business, and she has a long and ongoing pattern of working against transparency.

The Republican Party and conservatives would do well to replace her.



Felzkowski

## The worst of the worst

Oneida County board chairman Dave Hintz

What a difference a year

See Grades... page 23

# Grades

From page 22

makes. Or, perhaps more accurately, what a difference a pandemic makes.

Last year at this time, we were busy lauding Hintz's performance as an outstanding public official

dedicated to openness after a strong year of achievement. We observed that the county board chairman did "not block or hinder requests, and produces records without delay."

Wow, were we wrong. This year he has become the most visible public stain that symbolizes the decay and rot of our open government laws right before our eyes. He has actively embraced all sorts of discredited legal theories to justify the county's obstruction, distraction, and delay of records.

More recently, he has taken to seeing himself as some sort of czar who thinks he can assume powers to unilaterally enact policy decisions without going to the county board, and without ever having to justify his actions, and without ever giving other elected officials a say. And, to legitimize this sweeping dictatorial power, he has given himself the right to create an emergency situation that he himself defines (see below).

That's delusional, but it gets worse. Hintz is not only delusional but he has acted irrationally, as when he wanted to take the county board into a secret session to discuss the county's problem with secrecy.

Hintz has simply come off the rails. Maybe he was lured into one too many county association meetings, or wandered into Brian Desmond's office and took a sip of the Kool-Aid there, or perhaps he has been traumatized by the phalanx of public health officials telling him how high to jump and how many masks to wear.

Whatever the reason, his tenure must end, for the good of the county.

## Oneida County public health director Linda Conlon

Public health director Linda Conlon, the custodian of that department's records, has failed to fulfill her open records obligations under state law for 10 months now. She has released some of the requested records; unfortunately for her, the law requires all records to be released in a timely fashion, not just some of them, though that would sure make life easier for bureaucrats.

After being pressed for many months for the documents, she has brazenly refused to make time to release what was requested — her emails for the first three months of the pandemic, which we believe would shed light on her ac-

tivities and planning. Knowing what your public health department is up to in a pandemic is of the utmost importance, and it became more so after some of Conlon's early actions seemed overtly political, such as a policy of naming businesses that had been visited by people who had tested positive for Covid-19. The criteria used was based upon subjective interpretation of Covid-19 scientific data about how long contact must be maintained with a person before significant exposure occurs — as well as the type of interaction.

One small business representative labeled it "biological McCarthyism." Conlon changed course, but it has never been a path in the sunlight.

Our confidence in Ms. Conlon's transparency reached a new low after Oneida County board chairman Dave Hintz employed his emergency powers as chairman this past month to approve emergency staffing level increases for the health department for vaccine administration, ostensibly because the action could not wait six days until the county board met.

Hintz's approval came just one day after the county's Board of Health met with no need for an emergency approval process listed on its agenda, and with no agenda item related to departmental understaffing or a need for an emergency increase in staffing levels.

Talk about a lack of transparency. Hintz, who is used to being hornswooggled all the time by Brian Desmond, is now apparently being hornswooggled by Conlon. Because Desmond has now duly departed, Conlon has become the county's Hornswoogler in Chief.

She'll need every bit of those powers to keep county residents afraid and surrendering in a fast-fading pandemic that never posed much of a threat to most of the population anyway.

## Local public health departments in general

Around Wisconsin local health departments have been eager to jump on board with the most political and restrictive responses to the pandemic that one can imagine. Linda Conlon is not the only public health department director to be derelict in her duty to keep the public properly informed, to have been less than forthcoming with records during the pandemic, or with using excessive workloads as an excuse to delay fulfilling records requests.

In December, the Wisconsin Transparency Project (WTP) sent a letter to Public Health Madison & Dane County demanding that the health department cease delaying responding to record requests, and accusing the agency of ignoring requests for months, as well as withholding basic information about the pandemic.

WTP president Tom Kamenick said that "keeping people in the dark is no way to fight a pandemic." He's right, but local public health agencies have apparently not gotten the memo. Maybe it's being reviewed by Brian Desmond.

## The Wisconsin Department of Natural Resources

Ever since the election of Tony Evers, we have been keeping an eye on the Wisconsin Department of Natural Resources, wary of signs that the agency's rogue bureaucrats would soon be up to no good by trying to subvert the will of the people.

As we have previously written, the last time a Democrat ran the executive branch, in the Jim Doyle era, DNR bureaucrats literally ran amok, rewriting laws on a whim, devising ever more restrictions on reasonable property rights, threatening superseding ordinances, and generally making life miserable for everyone who did not agree with their radical agenda.

Then, too, the Evers administration brought back one of the biggest culprits from that time, Todd Amba, and placed him in a high position of authority in the DNR. So the red flags were flying, in more ways than one.

In recent weeks the Red Brigade — are they red or green, we get confused — has been back, working with a small "team" of lake association radicals and zoning department fellow travelers to write entirely new ordinance language concerning such things as vegetative buffer zones and viewing corridors.

The "team" spent months working on the ordinance language without any public input and without any input from the zoning committee.

Of course, what was going on at the local level was bad enough, but the DNR's conduct in this affair is contemptible. After the *fi*asco became public, elected supervisors — you know, the ones who actually represent the people — wanted more information and so invited the DNR officials involved in the back-room talks to share their thoughts in a public meeting.

This was apparently too much for DNR north regional director James Yach and the agency's shoreline policy coordinator, Kay Lutze, to handle. They refused to talk with elected officials after meeting with a private group for months, and, conveniently, fashioned ordinance language that would fit their new interpretation of the law and NR 115 — which has not changed in any way to warrant a reinterpretation.

So the old DNR is back, and this year they rejoin the worst of the worst.

## Oneida County supervisor Bob Mott

In the past, Bob Mott has expressed his disdain for the state's open meetings laws. Mott once suggested he shouldn't be held accountable for breaking the open records law precisely because he's not an expert and might not know what's right or wrong.

"As a committee chairman, I am not an expert in the law and be able to look at an agenda and say, 'Yeah, by law, this is OK,'" Mott

said at an administration committee meeting. "We can't even get the attorney general's office to give us an opinion. How am I, as an individual, as the head of a department — chair of a department — supposed to look at it and say by law, 'Are all things OK there?' We can't even get an opinion."

Well, one way might be to actually read what the law says. Another might be to embrace the spirit of the law, if he cannot understand the letter of it. Mr. Mott does not, and he failed the open-government test.

This past year, Mott has only nested himself ever deeper into the den of darkness. He failed to even reply to an open records request we sent him, and, while he claimed he never got it, the request, sent by mail, was never returned to the newspaper.

What's more, during talks this year about reforming the county's open records provision, Mott wanted to add language that would require a records requester to provide both a time frame and a subject matter for a request.

Besides the fact that that would conflict with state law, it would foreclose the ability of citizens to be able to spot check the general work public officials do over certain periods of time, forcing requesters to narrowly inspect only certain defined work areas and leaving officials free to romp roughly in places the public isn't likely to ask about.

## Former corporation counsel Brian Desmond

He's going, going, gone! Brian Desmond has departed Oneida County for greener pastures — though they won't stay green for long with him around — and, we must say, Sauk County's loss is our gain.

Never say Desmond didn't try harder. This year during the pandemic, the corporation counsel reached for new heights of secrecy and largely succeeded, along the way embarrassing himself, and embarrassing the hapless and seemingly helpless Dave Hintz even more.

For example, this year he penned laughable arguments that all correspondence between the attorney and the county is privileged, when a raft of court decisions states just the opposite. He continued to peddle the discredited theory that an open records request must have both a reasonable time frame and a subject matter, though the statutes clearly state otherwise.

As for that last matter, Desmond had stolen the argument from the governor, who went to court with it and lost. However, Desmond continued to traffic in that deception long after the governor had given up, which was always part of the problem with Desmond — he never knew how to quit when he was behind.

To those who might be reading this in Sauk County,

this might be a good time to go and tour the county courthouse, before the doors close and imbecility takes over.

# Incomplete

## President Joe Biden — Incomplete but failing so far

The last two presidents only scored average average grades in our Sunshine Week ratings, and it remains to be seen just how President Joe Biden will do in office.

Suffice it to say at this point, though, the president hasn't gotten off to a good start. On the eve of his inauguration, some open government advocates sent Biden a memo asking for a firm commitment to transparency. Biden's transition team did not respond to requests that the president sign a memorandum to promote government transparency, that he describe the incoming administration's general open government policies, that he explain how the administration would handle investigations involving leaks to journalists, or whether it plans to appoint a transparency chief to oversee open government processes.

There's more. As Politico recently reported, the president's and vice president's schedules aren't posted online. The White House comment line is closed, and there are no citizen petitions on the White House's website. The White House says it won't release the names of those attending virtual meetings, either, and Biden, 54 days into his term as of this writing, has yet to hold an official press conference.

## U.S. Rep. Tom Tiffany

So far, we have no indication whether U.S. Rep. Tom Tiffany intends to aggressively support open government efforts in Congress. Certainly, reform is needed. The federal Freedom of Information Act (FOIA) is 55 years old and in need of an overhaul. We ask that Tiffany be a part of that effort.

A good place to start would be to support — and maybe even introduce — a bill putting Congress under the FOIA. That would be the most important reform of all.



Hintz



Biden



Desmond



Tiffany



Conlon



Mott

### DID YOU KNOW...

- Autism now affects 1 in 89 children and 1 in 54 boys
- Autism is the fastest-growing serious developmental disability in the United States
- More children will be diagnosed with autism this year than with AIDS, diabetes & cancer combined

AUTISM SPEAKS  
It's time to listen.