VILLAGE OF WILLIAMS BAY

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NOTICE

VILLAGE BOARD OF TRUSTEES MEETING

TUESDAY, APRIL 21, 2026 AT 5:30 PM

Village Hall Council Room
250 Williams Street
Williams Bay, WI 53191

The meeting will be live-streamed on the Village of Williams Bay's YouTube, which can be found here: https://youtube.com/live/hbUVyPKP8-s?feature=share

AGENDA

The following agenda items may be considered for Discussion, Consideration, or Action

I. Call to Order

II. Roll Call

III. Pledge of Allegiance

IV. Meeting Decorum

A. Meeting Decorum. *According to Robert's Rules of Order, meeting decorum means maintaining respectful and orderly behavior during a discussion, including addressing the chair to speak, staying relevant to the topic at hand, avoiding personal attacks, and generally adhering to courteous conduct while debating issues; essentially, ensuring that discussions are focused and civil, with only one person speaking at a time when recognized by the chair. Violators of meeting decorum will be excused from the meeting.*

V. Clerk Administers Oaths to Newly Re-Elected Officials

A. Village Trustee Steve Russell

B. Village Trustee Rob Umans

C. Village Trustee Lowell Wright

VI. Public Comments

A. *Individual public comments will be limited to two (2) minutes maximum. If your comments align with other comments before you, please consider stating that you are in agreement with those comments. The public may speak on any item that is not included on this agenda as a "Public Hearing or Forum." Anyone who wishes to comment should identify himself or herself and provide his or her local address. Board members may discuss any matter raised by the public. However, the Board will refrain from extensive dialogue and should not take action on matters raised by the public during a public comment period. Referrals to committees or staff members might be made. Members may ask the commenter to clarify his or her remarks. The Board President or the presiding officer will maintain control of the meeting.*

VII. President's Remarks

A. Welcome to Elected Village Trustees

B. Village of Williams Bay Elected Officials Handbook and Training Opportunities

VIII. Appointments by Village President

A. Appointments of Members & Chairs for Standing Committees

B. Appointments to Other Boards, Commissions and Committees

IX. Public Comments

A. *Individual public comments will be limited to two (2) minutes maximum. If your comments align with other comments before you, please consider stating that you are in agreement with those comments. The public may speak on any item that is not included on this agenda as a "Public Hearing or Forum." Anyone who wishes to comment should identify himself or herself and provide his or her local address. Board members may discuss any matter raised by the public. However, the Board will refrain from extensive dialogue and should not take action on matters raised by the public during a public comment period. Referrals to committees or staff members might be made. Members may ask the commenter to clarify his or her remarks. The Board President or the presiding officer will maintain control of the meeting.*

X. Adjournment

Requests from persons with disabilities, who need assistance to participate in this meeting or hearing, should be made to the Village Clerk's office in advance so the appropriate accommodations can be made.

Posted: 04/17/2026 5:00 PM

Village of Williams Bay
April 7, 2026 Spring Election
PRELIMINARY RESULTS

Total Ballots Cast:	1,116
Total Registered Voters:	2,126
Provisional Ballots: 0	Election Day Registrations: 26
Total Eligible Voters:	2,152
Voter Turnout:	**52%**

Absentee Ballots		**Ballots Cast**	
Issued:	370	At Polls:	786
Received:	330	By Absentee:	330
Outstanding:	40	Total:	1116

Justice of the Supreme Court (1)	**VOTE TOTAL**
Chris Taylor	557
Maria S. Lazar	523
Write-in	2
Total Votes	**1082**
Number of Overvotes	0
Number of Undervotes	34

Court of Appeals Judge District 2 (1)	**VOTE TOTAL**
Anthony LoCoco	722
Write-in	22
Total Votes	**744**
Number of Overvotes	0
Number of Undervotes	372

County Supervisor District 7 (1)	**VOTE TOTAL**
Joanne T. Laufenberg	414
Adam Jaramillo	627
Write-in	6
Total Votes	**1047**
Number of Overvotes	0
Number of Undervotes	69

Williams Bay Village Trustee (3)	**VOTE TOTAL**
James P. D'Alessandro	540
Steve Russell	674
Rob Umans	583
Lowell Wright	677
Write-in	30
Total Votes	**2504**
Number of Overvotes	0
Number of Undervotes	844

School District School Board Member (2)	**VOTE TOTAL**
Darla Thiel	750
Patrick Peyer	674
Write-in	14
Total Votes	**1438**
Number of Overvotes	0
Number of Undervotes	794

Village Trustees Elect (including President Jaramillo and Trustees - bcc)

Congratulations on your election to the Village of Williams Bay! All newly elected officials will be administered the oath of office, and the new Village Board will be seated during the Village Organizational meeting on ***Tuesday, April 21 at 5:30 pm****. The first Regular Village Board meeting is Monday, May 4 at 6:30 pm.*

Chairs for each Committee receive a draft agenda for review the week prior to the next regularly scheduled meeting. The goal is to have the Chairs finalize their Committee Agendas the Monday prior to the upcoming meeting in order to provide sufficient time to prepare the meeting materials for the meeting packet. The Village Board Agendas and Meeting Packets are published the Friday prior to each meeting along with the Village Administrator Annotated Agendas.

To assist with your on-boarding, the following items are provided for your reference:

1. *Village Bay Village Board Handbook*
2. *ICMA (International City Management Association) Toolkit Newly Elected Leaders*
3. *League of Wisconsin Municipalities Newly Elected Officials Guide*
4. *Open Meetings Law Compliance Guide – Wisconsin Department of Justice*
5. *2026 Wisconsin Municipal Guide. Click on the following link to be taken directly to the guide or copy and paste the following URL into your web browser. https://wi-municipalities.com/2026/*

The Village is also offering the following Local Government Basics training opportunity for all board members. Please reply to this email if you would like to take advantage of this opportunity and we will register you. https://www.lwm-info.org/799/Local-Government-Basics?PREVIEW=YES

Again, congratulations and please let me know if you have any questions.

Best regards,

Dave

David Lothspeich
Village Administrator
Village of Williams Bay
262-245-2700 (o)
847-421-7715 (c)

The Village of Williams Bay, WI

Village Board Member Handbook

Adopted R-67-24 on 09/16/2024
Revised 04/15/2025

Table of Contents

Chapter 1: Village of Williams Bay, Wisconsin 4

Introduction 4

Williams Bay's Form of Government 4

Roles Overview 5

William's Bay at a Glance 6

Boards, Commissions, & Committees 7

Public Meetings Calendar at A Glance 8

Village Departments 8

Chapter 2: Policies & Practices 9

Role of Village President Municipal Code Chapter 1-5 Village President and Board 9

Responsibilities of Village Board Members 9

Village Board Goals & Priorities 10

Agendas & Minutes 10

Village Board Meetings 11

Ethics 12

Other Policies & Protocols 17

Chapter 3: Staff 18

Staffing Highlights 19

Role of Village Administrator Williams Bay Municipal Code Chapter 1-6-2 19

Role of Village Attorney State Statutes 62.09(12) 20

Role of Village Clerk Municipal Code Chapter 1-6-3 20

Other Key Positions, Staff & Contracting Agencies 20

Communication with Staff Members 21

Communication and Supervision 21

Chapter 4: Finance 22

Financial Policies 23

Fund Explanation 23

Revenue Sources: Taxes, Licenses & Permit Fees, Charges for Services 23
Role of Intergovernmental Revenues 24
Tax Increment Districts (TIDs) 24
Capital Improvement Plan (CIP) 24

Chapter 5: Legal Issues 25
Village of Williams Bay Ordinances 25
Public Meetings 25
Public Records 26
Conflicts of Interest 26
Accepting Gifts 27

Chapter 6: Land 28
Planning & Zoning 28
Annexation 28
Variances 28

Chapter 7: Board Conduct 29
Effectiveness & Efficiency 29
Interacting with the Public 30
Dealing with the Media 31

Chapter 8: Directory 32
Departments 32
Additional Resources 33

Appendix A: Chapter 1-5 Village President and Board 35

Appendix B: Wisconsin Statute 19.59 42

Appendix C: Village Administrator Job Description 46

Appendix D: Quick Reference 49

Appendix E: Employee Organization Chart 50

Appendix F: Open Meetings/Public Records Training Materials 51

Chapter 1: Village of Williams Bay, WI

Introduction

Welcome to your exciting new position as an elected official of the Village of Williams Bay (Williams Bay) Village Board. Leadership positions in municipal government can be both rewarding and challenging and this handbook was created to assist in your transition to this position. The handbook provides an overview of Williams Bay and its government, as well as your primary responsibilities, and how elected and appointed officials as well as Village staff can work together in the most efficient and effective way to best serve the Williams Bay community. While the handbook is designed to answer many of the commonly asked questions of new Board members, it cannot begin to address all the topics and knowledge required for you to successfully fulfill your position. It is important that you develop relationships with both the elected and appointed officials of Williams Bay and feel free to ask any questions you may have.

Williams Bay's Form of Government

The Village of Williams Bay is a Municipal Corporation with authority vested in the Village Board and the Village President, who is the Chief Executive Officer (CEO) of the Village. The Village adopted the Village President- Board form of Government as provided for in Chapter 61 of Wisconsin State Statutes. Under the Village President-Board form, Williams Bay subsequently adopted an ordinance creating an administrator position that define the authority of that position and references a position description (**Attachment Appendix C).**

Williams Bay, like many other Wisconsin cities under the Home-Rule charter of Wisconsin, has the power to govern itself regarding local matters except where the State has specifically prohibited that power. Individual members of the governing body have no authority to make decisions on behalf of the Village unless they have been given specific authority from the governing body as a whole.

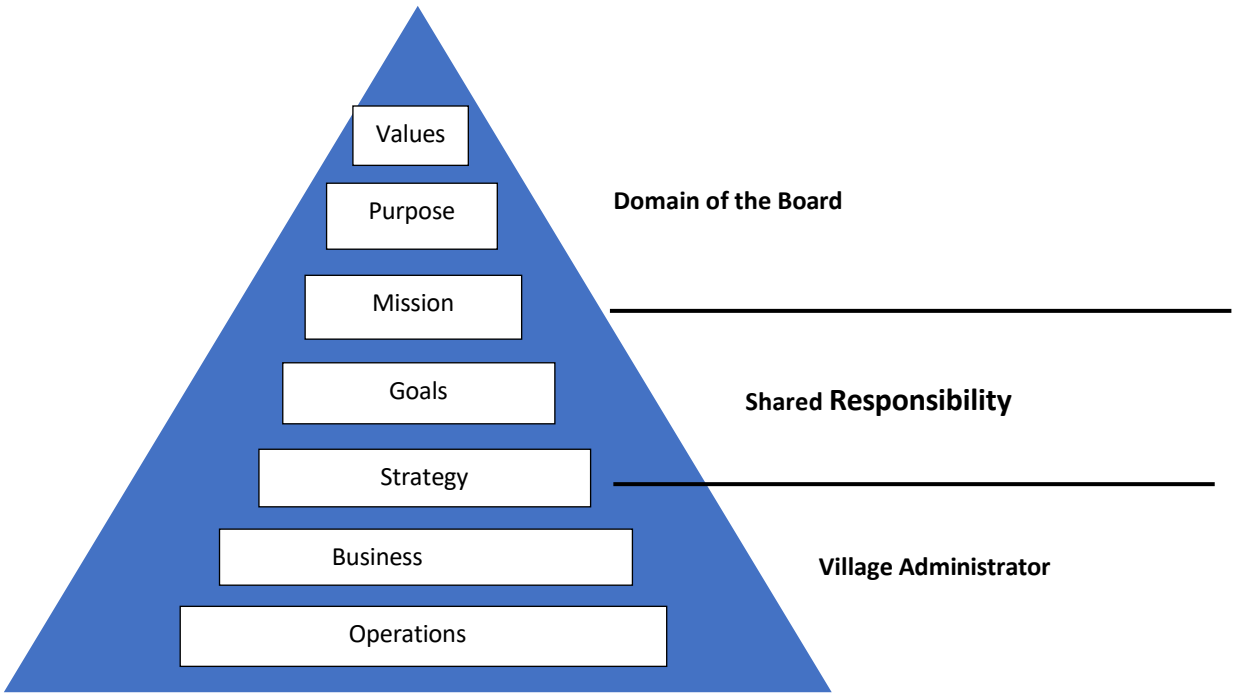
The Village President has the authority to perform many executive responsibilities. The Village President serves as the policy leader, they also frequently represent the Village with media relations, meetings and presentations to other governmental units. Unless otherwise expressly provided in the Village code or by law, standing committees shall be appointed, and the chairperson thereof designated, by the Village President annually at the time of the organization of the Board, and such appointments and chair designations shall require confirmation by the Board. Unless otherwise expressly provided in the Village code or by law, special committees shall be appointed, and the chairperson thereof designated, by the Village President annually at the time of the organization of the Board, and such appointments and chair designations shall require confirmation by the Board **(Chapter 110 – 3, Village Board Committees)**. State Law Reference: W.S.A. s. 61.20 and 61.325. § 62-3. Village President.

The Village Board has all the powers of the Village that have not been specifically given to another body or officer. The Board provides policy direction in the management and control of Village property, finances, streets, utilities, and public service. The Board may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, imposition of forfeiture and other necessary or convenient means.

The Village Administrator is appointed by the Village President and confirmed by the Village Board for a term of three years. The Village Administrator serves as the Administrative Officer of the Village, responsible for the proper administration of the business and affairs of the Village. In order to provide a more efficient and effective government a professional Administrator is responsible for the direction and coordination of all Village employees and operations. The Administrator reports directly to the Village President and Board with general areas of responsibility including: Financial, Administration, Legislative, Human Relations. **(Chapter 80 – 3, Village Administrator)**.

Roles Overview

The following graphic visually represents the roles of the Village Board and Village Administrator.



Village Board

- Representing the interests of all residents
- Ensuring long-term success of the Village
- Revising and approving the purpose, mission and vision statements
- Identifying, providing input on, and prioritizing issues
- Allocating resources and approving the budget
- Asking for data to support positions
- Approving the strategic plan
- Evaluating the Village Administrator

Administrative Management

- Educating the Board on the need for planning, how the Board can participate, and emerging issues
- Presenting its assessment of the relative significance of emerging issues
- Developing the strategic and action plans
- Preparing studies that justify its recommendations
- Implementing approved initiatives
- Reporting on progress of goal attainment
- Supervision of employees
- Oversees daily operation

Village of Williams Bay – At A Glance.

The Village of Williams Bay was incorporated in 1919 located in southeastern Wisconsin (Walworth County) known for its abundant natural resources and picturesque location situated on the beautiful northwest shores of Geneva Lake. The Village is approximately 2.8 square miles in area with a population of 2,935, which roughly doubles during the summer months, is bordered by the Towns of Geneva, Linn, Delevan and Walworth. Williams Bay School District grades PK, K-12 has 693 students. The Village of Williams Bay is a full-service community providing or arranging for police, fire, EMS, public works, water and sewer, library, parks and recreation services. In addition to the services provided by the Village, other services, such as garbage, are contracted out to private companies.

Vision Statement - 2023 Comprehensive Plan. *Williams Bay will be a small, friendly community of year-round and seasonal residents, businesses, and institutions developed in harmony with Geneva Lake, natural resources, and surrounding rural areas. The community culture will be that of a retreat from the more intense lifestyles of resort areas, enhancing leisure, opportunity for spiritual renewal, outdoor recreation, and contact with nature. Businesses, employment centers, and community services will be those which respond to the specific needs of residents and visitors and sustain the vitality of the community as a whole. A source of community pride will be the lakefront, enhanced natural areas, and the attractive design and maintenance of all man- made improvements respectful of their environment*.

Boards, Commissions, & Committees

- Village Board shall be as follows: (Chapter 110 Village Board):
    - Six (6) Trustees and the Village President

- Standing Committees of the Village Board consisting of three (3) Board Members appointed by the Village President and approved by the Village Board as follows (Chapter 110-3. Village Board Committees):
    - Finance and Personnel Committee
    - Streets & Highways Committee
    - Protective Services Committee
    - Parks & Lakefront Committee
    - Building, Zoning & Ordinance Committee
    - Water & Sewer Committee

- Special boards, committees and commissions of the Village appointed by the Village President and approved by the Village Board shall be as follows (Chapter 12. Boards, Commissions and Committees):
    - Board of Review. Seven-member Board composed of Village Board.
    - Library Board.
    - Plan Commission. Seven-member, composed of Village President, Trustee, Parks and Memorial Advisory Committee and four (4) citizens.
    - Civil Defense Commission. Seven-member, composed of Police Chief and six (6) citizens.
    - Election Board. Village Clerk and those elected officials appointed.
    - Harbor Commission. Five-members appointed.
    - Park and Memorial Advisory Committee. Five-member Board with Chair serving on Plan Commission.
    - Kishwauketoe Nature Conservancy Board. Seven-member Board consisting of the Conservation District Commission members.
    - Law Enforcement Committee
    - Geneva Lake Area Transportation Commission. Three members.
    - Board of Canvassers: Three-member Municipal Board.
    - Tax Incremental Finance District Joint Review Board: Five-member Board.
    - Zoning Board of Appeals: Five-member Board. 2 Trustees, 1 Plan Commission Member and 2 Citizens.

Public Meetings Calendar at A Glance

- Board of Canvassers: Meets after every election.
- Board of Review: Meets in July or as needed.
- Committees (Standing) - Meet 1st Monday of the month as needed at 6:30 PM.
    - Finance and Personnel Committee
    - Streets & Highways Committee
    - Protective Services Committee
    - Parks & Lakefront Committee
    - Building, Zoning & Ordinance Committee
    - Water & Sewer Committee

- Village Board: Meets 1st and 3rd Monday of the month at 6:30 PM.
- Plan Commission: Meets 1st Tuesday of the month, as needed, at 6:30 PM
- Zoning Board of Appeals: Meets 3rd Tuesday of the month, as needed, at 6:30 PM

Village Departments

Administration
Building Inspection & Zoning
Clerk
Treasurer
Water & Sewer
Fire
Recreation
Police
Public Works
Harbor Master

Chapter 2: Policies & Practices

Much of the responsibility of serving as an elected official lies in learning what is expected of you. This chapter defines the primary duties associated with elected positions and provides a detailed guide to some of the most basic operations you will encounter.

Roles of Village President. Chapter 110 Village Board

The Village President shall perform the following duties as part of the office:

- The Village President shall be by virtue of the office a trustee and preside at all meetings of the board and have a vote as trustee, sign all ordinances, rules, bylaws, regulations, commissions, licenses and permits adopted or authorized by the board and all orders drawn on the treasury except as provided by s. 66.0607. The president shall maintain peace and good order, see that the ordinances are faithfully obeyed, and in case of disturbance, riot or other apparent necessity appoint as many special marshals as the president shall deem necessary, who for the time being shall possess all the powers and rights of constables.

- In municipalities with administrators, the Village President exercises the executive responsibility indirectly by monitoring the activities of the administrator and the various departments of Village government. The administrator is responsible for day-to-day operations of government, including the supervision of department heads.

- Other specific duties of the Village President include:
  - The Village President shall serve as the policy leader for the community, providing policy information and recommendations to the Village Board and preside over Village Board meetings.
  - The Village President, as Trustee, may vote on all voting matters before the Village Board but does not have veto power.
  - Village Presidents, as Trustee, are counted in determining whether a quorum is present at the meeting.
  - The Village President may represent the Village in meetings with and presentations to other governmental units, businesses, community groups, and other groups.
  - The Village President shall work with residents of the community in receiving their comments and complaints and seeking appropriate responses in conjunction with the administrator and, if necessary, the Village Board.
  - The Village President shall not serve on standing committees and may serve on special committees of the Village as well as on boards and commissions to which they are appointed or elected in accord with the law.
  - The Village President shall perform any other duties not specified here that are defined in other ordinances of the Village.

Roles of Village Board Members

Powers and Duties - The Trustees and Village President shall constitute the Village Board and shall have such powers and duties as are enumerated in Ch. 61, Wis. Stats., and elsewhere in the statutes.

Powers of the Village Board - The Village Board shall have all powers of the Village not specifically given to some other body or officer. Except as otherwise provided by law, the Village Board shall have the management and control of the Village property, finances, highways, streets, utilities and the public service, The Village Board may act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, imposition of forfeiture and other necessary or convenient means. The Village Board may appoint such officers from time to time as may be deemed necessary for the benefit of the community. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language. Additional Powers of the Village Board including: cooperation with other municipalities; acquisition and disposal of property, including acquisition of easements and property rights and Village finances.

Board Trustees

- There shall be one (1) Village President and six (6) Trustees elected to the Village Board.
- Election of Trustees:
    - Elected at large. Trustees shall be elected at large for a two-year term in the annual spring election. The Village President and three (3) Trustees shall be elected in each of the odd- numbered years and three (3) Trustees in each of the even-numbered years.

Village Board Goals & Priorities

A comprehensive plan is a local government's guide to community physical, social, and economic development. Comprehensive Plans are not meant to serve as land use regulations in themselves instead they provide a rational basis for local land use decision with a 20-year vision for future planning and community decision.

The Wisconsin Comprehensive Planning Law does not mandate how a local community should grow, but it requires public participation at the local level in deciding a vision for the community's future. The uniqueness of individual comprehensive plans reflects community-specific and locally driven planning processes. According to s.66.1001(2)(i), comprehensive plans must be updated no less than once every 10 years. However, the law does not define "update".

While a local government may choose to include additional elements, a comprehensive plan must include at least all of the seven elements below as defined by the Comprehensive Planning Law (s.66.1001).

- Issues and Opportunities
- Housing
- Transportation
- Utilities and Community Facilities
- Agricultural, Natural and Cultural Resources
- Economic Development
- Intergovernmental Cooperation
- Land Use
- Implementation

The 2023 Williams Bay Comprehensive Plan was collaboratively developed by community members in order to create a vibrant, thriving, and resilient Williams Bay for the 20 years to come. This extensive public input included Visioning Boards, a Visioning Kickoff Meeting, Topic Meetings. A copy of the most recent comprehensive plan is available on the Village's website: https://www.williamsbay.org/

Meeting Agendas & Meeting Minutes

Village Board meeting agendas and the supporting materials are an important element in preparing for a Board meeting. Items may be placed on a Village Board agenda by the Village President as Chair of the Village Board. Request(s) to add items to an agenda are to be submitted to the Village President. Village staff will compile the agenda, gathering all pertinent information that should be considered by the Village Board. It is important that Village Board members notify the Village Administrator of any particular topics that they would like included on an agenda. Discussions and decisions may only be made at public meetings of items specifically listed on the agenda.

Staff is responsible for originating the agenda and providing supporting documents. The Village Board Agenda and Packet are compiled electronically and posted to the Village's website no later than the Friday prior to a Village Board meeting https://www.williamsbay.org/home/pages/meetings-minutes. At that time, the agenda is also posted at Village Hall, the Williams Bay Post Office, and the Village of Williams Bay website. It is required by Wisconsin State Law that any item on an agenda be posted at least twenty-four (24) hours prior to a public meeting. The agendas and materials will also be provided on your Village-issued iPad through a program called CivicPlus. The Village Clerk will also send copies of the agenda and back up materials to members through their official Village email address.

An important part of your role as a member of the Village Board is to review agenda materials prior to the meeting so that you are adequately informed of the topics to be discussed and can ask questions prior to the meeting and make decisions in an educated manner. In order to provide Village Board members, the opportunity to review and be informed of the topics in a

timely manner the agenda and materials are provided the Wednesday prior to the upcoming meeting. This advance review time is also intended to provide Village Board members the opportunity to ask questions about agenda items before the agenda is published the Friday prior to the meeting. In order to provide time to review and provide a response, Village Board members are encouraged to review the agenda/agenda materials and provide questions or comments to the Village Administrator before Noon, the Monday prior to the meeting.

Following each Board meeting, the Village Clerk will compose the minutes from that meeting. The minutes are a way of recording attendees' present and document important decisions that took place at the meeting. At the beginning of each Board meeting, you will be asked to approve the minutes from the previous meeting. Meeting minutes will be posted to the Village website and made public after they are approved by the Village Board.

Village Board Meetings

Provisions for the proceedings of Village Board meeting can be found in 110-5 Village Board bylaws of Village Code, which is included as **Appendix A.**

Quorums & Open Public Meetings

First, it is helpful to define "quorum." A quorum is the minimum number of a governmental body's membership necessary to act. One governmental body may define what constitutes a quorum differently than another governmental body. For example, a quorum for a seven-member town Board may be a simple majority of four members while a quorum for a neighboring town's seven-member Board may be a super majority of five members.

It is important that a quorum, or minimum number of four Board members, is present at any Board meeting so that votes can take place. Additionally, for some issues such as annexations or budget matters, a larger number of Board members may need to be present in order to vote on the items. The Board is encouraged to notify the Village Administrator by the Friday prior to the upcoming meeting, the sooner the better, if they are unable to attend in order to confirm a quorum for the upcoming meeting. Any decision made by the Board for certain agenda items with fewer than four is not considered valid. All meetings of the Board must be open and public, no matter where or when they are held, and all of their proceedings must be recorded by the Staff **(Appendix E)**. Therefore, talking with Board members about Village business outside of a Board meeting is discouraged in order to avoid a **walking quorum**.

What is a Walking Quorum?

Answer:

A "walking quorum" is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum. A walking quorum may produce a predetermined outcome and thus render a publicly-held meeting a mere formality. The Wisconsin Supreme Court has commented that any attempt to avoid the appearance of a meeting through the use of a walking quorum is subject to prosecution under the open meetings law. Furthermore, the requirements of the open meetings law

cannot be circumvented by using an agent or surrogate to poll the members of governmental bodies through a series of individual contacts. The series of gatherings need not be face-to-face. For example, phone calls, email exchanges, and other electronic messaging may suffice.

The essential feature of a "walking quorum" is the element of agreement among members of a body to act uniformly in sufficient numbers to reach a quorum. Where there is no such tacit or express agreement, exchanges among separate groups of members may take place without violating the open meetings law. Thus, the signing, by members of a body, of a document asking that a subject be placed on the agenda of an upcoming meeting likely does not constitute a "walking quorum" where the signers have not engaged in substantive discussion or agreed on a uniform course of action regarding the proposed subject. In contrast, where a majority of members of a body sign a document that expressly commits them to a future course of action, a court could find a walking quorum violation.

Walking quorum issues are complex and fact specific. If a member of a governmental body or a citizen has questions or concerns regarding a possible walking quorum, they should consult with their legal counsel.

Type of Board Meetings

In addition to the regularly scheduled Board meetings on the first and third Mondays of each month, Special Village Board meetings may be called by the President or any two trustees in writing filed with the Clerk. If at least 24 hours remain before such meeting, the Clerk shall notify each member of the Board of the time, place and purpose of such special meeting by e-mailing a written notice thereof to each member of the Board and by telephoning them, if possible. If less than 24 hours but at least six hours remain before such meeting, the Clerk shall give notice to each trustee by personal service and by telephone, if possible. No special meeting shall be called upon less than six hours' notice except with the unanimous consent of all members of the Board expressed orally or in writing (Chapter 110-5 Village Bylaws).

Village Board Meeting Dates and Times.

Regular meetings. The regular meetings of the Village Board shall be held in the Village Hall on the first and third Mondays of each month at 6:30 p.m., unless noticed otherwise. The Board may adjourn any regular meeting to any future date at which new business may be introduced as well as unfinished business completed.
[Amended 7-5-2022 by Ord. No. 2022-11]

Order of Business

Order of business. The business of the Board shall be transacted in the following order:
[Amended 6-16-2025 by Ord. No.2025-06]. Chapter 110-5. Village Board bylaws.

(1) Roll call.
(2) Reading the minutes of the preceding meeting, making any corrections and approving.
(3) Public comments. *The public may speak on any item that is not included on this agenda as a "Public Hearing or Forum." Anyone who wishes to comment should identify himself or herself and provide his or her local address. Board members may discuss any matter raised by the*

public. However, the Board will refrain from extensive dialogue and should not take action on matters raised by the public during a public comment period. Referrals to committees or staff members might be made. Members may ask the commenter to clarify his or her remarks. The Board President or the presiding officer will maintain control of the meeting.

(4) Consent agenda.
(5) Presentation of accounts and petitions.
(6) Plan Commission.
(7) President's remarks.
(8) Ordinances and resolutions.
(9) Committee reports.
(10) Public comments.
(11) Adjournment.

Presiding officer. The President or presiding officer shall preside at all meetings and preserve order, deciding all questions of order, subject to an appeal to the Board.

Calling meetings to order. The President shall take the chair at the hour appointed and immediately call the meeting to order. In the absence of the President, the Clerk or, in the Clerk's absence, any member of the Board may call the meeting to order, and thereupon the Board shall appoint one of its members President Pro Tempore. In the absence of the Clerk, the Board may appoint one of the members present to serve as Clerk during the session. The Chair shall confirm public notice compliance with the Clerk or other Village staff representative.
[Amended 1-15-2018 by Ord. No. 2018-1]

Passage of ordinances.
(1) Every proposed ordinance shall have two separate readings previous to its passage but shall not be read at any other time than regular sessions except by unanimous consent. The second reading may be waived by vote of the Board.
(2) The second reading of an ordinance shall be by section at which time amendments may be offered. If no amendments are made, the question shall be, "Shall the ordinance pass?" If amendments are offered and made, the chair shall so report and the ordinance shall be so read as amended before the question of its passage is taken.

Rules of procedure. The rules of parliamentary practice embraced in *Robert's Rules of Order, Newly Revised*, shall govern the Board where applicable and where not inconsistent with the standing rules, bylaws and order of the Board.

Approval Methods
There are several ways in which the Board can make decisions during a public meeting. The subject of discussion determines which method should be used.

Voting Procedures

1. Form of questions for voting. Where a roll call vote is taken the question shall be stated by the presiding officers as follows: "As many as are in favor answer 'yes', those opposed will answer 'no' and the clerk will call the roll."; and in doubtful cases, the presiding officer may direct or any member may call for a division.
2. Recording votes. The ayes and nays shall be taken and recorded upon any question before the Board upon the call of any two members.
3. Votes. Every person present when a question is put shall vote, unless the presiding officer shall excuse them for good cause.
4. Tie votes. The presiding officer shall, in all cases, be entitled to vote. It shall be in order for any member who voted in the majority on any question or for any member who voted in the negative when the Board was equally divided, to move a reconsideration vote on the same or next succeeding regular meeting of the Board. A motion to reconsider, having been put and lost, shall not again be in order.

Motions

When a motion is made and seconded, it shall be in possession of the Village Board and shall be stated by the presiding officer, or being in writing shall be delivered to the Village Clerk to be read previous to debate. After a motion is stated by the presiding officer, it shall not be withdrawn except by consent of the Village Board. When a member is about to speak to a question or make a motion, he or she shall address the presiding officer, and the presiding officer shall pronounce the name of the member entitled to the floor, and the member shall confine themself to the question under consideration. No member shall speak more than twice on any question nor more than 10 minutes at any one time without leave of three-fourths of the members present. A motion to adjourn shall always be in order, unless the Village Board is engaged in voting, and shall be decided without debate.

Formal Motions are used to approve policy, establish procedures, or provide direction to staff members relating only to topics listed on the agenda. Village Board members may make a motion by stating, “I move that…” Most formal motions need to be “seconded.” This is done when a board member other than the one who made the motion states, “I second that motion,” or “second.” A motion can be amended or withdrawn during discussion by the board member that originally made the motion. Before moving on to a new topic, the current topic must be closed in one of three ways: 1) The original author of the motion may withdraw their motion at any time during the discussion. 2) The motion may be “tabled.” Tabling a motion is a procedural act (see below) that requires a Village Board vote. A tabled item can be brought back into debate with a motion to remove it from the table. 3) The Village Board can take a vote on the motion. See the discussion below on voting procedures.

Procedural Motions are made to determine the proceedings of a meeting. They, like formal motions, require a “second” and can order the adjournment of a meeting, the tabling a motion for later discussion, a temporary recess, or a number of other procedural events. The officially recognized guide to meeting procedures is the book *Robert’s Rules of Order*, which further explains

procedural motions and other rules of public meetings.

Village Board Voting is required to finalize the opinions of the Village Board. Generally, a roll call vote on a formal or procedural motion can take place under one of two conditions. First, the Village President may call for a vote regarding a motion when it is clear that debate over the matter has stopped. Second, during debate, a Village Board member may call for a vote on an open item by making a motion to vote on the measure on the floor. If this motion is seconded, then the Village Board takes a vote *on whether to vote on the original motion*. If a majority votes "yes," THEN the main motion (with any accepted amendments) can be voted upon. The process of making motions and voting can be a bit confusing at first, but over time, you will become more familiar with the process. If you are ever confused as to the action being requested in a motion or vote, take the time to ask the Village President to explain what is taking place.

Lawmaking
Final decisions of the Village Board are conveyed to the public through the adoption of ordinances and resolutions.

Closed Sessions
Closed sessions of the Board may only be held for a select number of reasons as set forth in Section 19.85 of the Wisconsin State Statutes. While the public is prohibited from attending these sessions, unless specifically invited to attend by the Village Board, notice must still be made of their existence. Closed meetings are only allowed to discuss personnel matters, litigation, or for some strategic reasons (such as when the discussion of purchase of a piece of real estate could be reasonably expected to increase the price the governmental body would have to pay for that property). Either part or all of a Village Board meeting may be closed to the public **(Appendix F).**

Abstaining from a Vote
Every Village Board member should vote on all matters and abstain from voting whenever there is a conflict of interest.

Tie Votes
In the event of a tie vote the motion does not pass.

Consent Agenda
A consent agenda is a practice by which the mundane and non-controversial board action items are organized apart from the rest of the agenda and approved as a group. Individual Board members may pull any item from the consent agenda if they wish it to be separately considered by asking the presiding officer to take them up separately.

The Public's Role in the Meeting

It is important that the public play an active role in the legislative process. During Board meetings, they have several opportunities to do so.

Public Hearing
Hearings are held on matters required by law or ordinance, such as adoption of the annual budget and amending the zoning ordinance. They may be held as standalone meetings, or as part of a

regularly-scheduled Village Board meeting. Public hearings are opportunities to inform the general public and for any individual to speak on the topic while the hearing is open. Once the public hearing is closed, the public will no longer be able to comment on the topic during the meeting unless approved to do so by the Village President or Chairperson.

Public Comments

This is the public's opportunity to address the Village Board on any item. The Village Board cannot take action on any matter not listed on the agenda for the meeting. Topics may, however, be placed on future agendas for Village Board action. Particularly if multiple individuals wish to speak regarding the same topic, the Village President may request that comments be limited to a particular time limit, which the Village President shall determine. Public comment period is scheduled for each Board meeting.

Ethics

As elected public officials, it is required that you act in an independent and impartial way that is responsible to the people that elected you. Ethical conduct is an extremely important part of your role as a representative of the Village, so please ask your fellow Board members or the Village Administrator if any issues arise. Several State of Wisconsin statutes define the manner in which publicly elected officials should act. Village Code Chapter 40 Ethics and Section 19.59, the State Ethics Law for Local Government Officials, Employees, and Candidates are attached at the end of this handbook **(Appendix B)** and should be carefully reviewed. Village Code and State Statutes prohibit using your office for private gain, exerting illegal influence, and taking action in a matter that you have an invested interest in. If you have a question about ethics, you may contact the Village Attorney or Village Administrator,

Other Policies & Protocols

Paychecks

Each board member is paid on a quarterly basis with board members paid an annual salary of $2,950 and the Village President paid an annual salary of $4,350. Your check will be direct-deposited.

Opportunity for Training and Outside Meetings

The Village of Williams Bay will pay for workshops, meetings, training and other events for the purpose of improving knowledge of duties of said office. Compensation can include the following, with some restrictions, but is not limited to: transportation, lodging, meal, entertainment and miscellaneous expenses. If an official attends Village functions, they will need to make sure they have met travel reimbursement requirements prior to finalizing payment and complete an expense report upon their purchase or completion of course. Board members are encouraged to share the knowledge gained from attending.

Vacancies in Municipal Office

Vacancies in elected or appointed offices can be caused by death, removal, resignation, if the individual ceases to be a resident of the Village of Williams Bay, when an individual's term expires, or when an individual is convicted and sentenced by a state or federal court for treason, felony or other crime of any nature punishable by imprisonment in any jail or prison for one year or more, or for any offense involving a violation of the incumbent's official oath.

Resignations must be made in writing and delivered to the Village Clerk, who is responsible for informing other Board members and the Village President. The effective date of resignation should be included in the letter.

When filling any vacancy in the office of the Village President or in the Office of the Village Trustees, § 17.24 of the Wisconsin Statutes shall control. The procedure for appointment for any vacancy shall be as follows:

- Except as provided in s. 9.10, a vacancy in any elective village office may be filled by appointment by a majority of the members of the village board for the residue of the unexpired term or until a special election is held, as ordered by the village board, or an office may remain vacant until an election is held. A vacancy in an appointive office shall be filled in the same manner as the original appointment.

Chapter 3: Staff

While the Village Board, boards, and committees of Williams Bay make a majority of policy decisions and guide the actions of staff members, those staff members take on the responsibility of implementing decisions of the Board. It is important that the Board understands and respects the role staff plays and that an open line of communication exists between all parties.

Staffing Highlights

The Village employs approximately 20 full-time employees and over 60 part-time/seasonal employees.

Village Administrator Williams Bay - Municipal Code Chapter 80-3

The Village Administrator shall be appointed for a three year term by the Village President, subject to confirmation by the Board. The Village Administrator shall be the administrative officer of the Village, responsible for the proper administration of the business and affairs of the Village, subject to those limitations imposed by the statutes of the State of Wisconsin, the ordinances of the Village of Williams Bay, and the resolutions and directions of the Village Board with power and duties as outline in Chapter 80-3 of Village of Williams Bay Code (**Appendix C).**

Village Attorney

The Village Attorney shall be appointed by the Village President, subject to confirmation by the Board. The Attorney's duties include attending Board meetings, providing legal advisement to Village Board and staff, representing the Village in all court cases, and assisting in drafting and reviewing proposed ordinances.

Village Engineer

The Village Engineer shall be appointed by the Village President, subject to confirmation by the Board. The Engineer's duties include attending Board meetings, providing engineering advisement to Village Board and staff, representing the Village in engineering matters, and assisting in street, water, sewer, building, etc. capital projects design, bidding and recommendations.

Village Clerk - Municipal Code Chapter 61.25

The Village Clerk shall be appointed for a three year term by the Village President, subject to confirmation by the Board. The Village Clerk shall have the powers and duties provided by Section 61.25, Wis. Stats., and such other duties as may be adopted in the form of a job description.

Village Treasurer - Municipal Code Chapter 61.26

The Village Treasurer shall be appointed for a three year term by the Village President, subject to confirmation by the Board. The Village Treasurer shall have the powers and duties provided by Section 61.26, Wis. Stats., and such other duties as may be adopted in the form of a job description.

Other Key Positions, Staff & Contracting Agencies

Department Heads

Working under the direction of the Village Administrator, Department Heads lead Village staff in carrying out the directives of the Village President and Board and daily administrative functions and assist the Administrator in the hiring process for employees in their departments. Department

heads include Police Chief, Public Works Director, Treasurer, Clerk, Recreation Director, Library Director, Harbor Master and Fire Chief.

Village Assessor

In 2017, the Village Board appointed Associated Appraisal for annual full value maintenance assessment services. Associated Appraisal is responsible for assessing and reassessing the value of land and property located within Village Limits. The Village is currently operating under an optional auto renewal agreement extension that will be available for each of the 2021, 2022, and 2023 assessment year. In 2023, the Village Board approved changing the Village Assessor from Associated Appraisal to Accurate Appraisal for years 2024, 2025 and 2026.

Existing Bargaining Units

The Williams Bay Professional Police Association union is the bargaining agent for all full-time sworn police officers in the Village. The Police Chief, Lieutenant and part-time are excluded.

Note: 2011 Wisconsin Act 10 significantly altered the Village's relationship with bargaining units. For more information on the current labor/management environment, see the Village Administrator.

Communication with Staff Members

While Village Board is responsible for determining the policy of the Village and providing direction for Village Administrator action, the Village Administrator is the Chief Administrative Officer for the Village and is responsible for supervision and accountability of all Village Staff. Though Board requests and direction play an important role in determining employees' work plans, it is important that the Village Administrator be able to coordinate and monitor work efforts of all staff members. For this reason, Board requests for staff action and task assignments should be conveyed to the Village Administrator except in cases of emergency. In this way, Board requests will be fulfilled while the Administrator maintains their supervisory position with staff. This distinction is important as Board members may not be aware of the most appropriate staff member to direct requests towards or the current workload of individual employees. It helps in making sure that efficiency and order are maintained in Village operations.

Similarly, Board should communicate with the Village Administrator any concerns about individual employees, and should not directly address performance problems with employees. In this way, Board can maintain an active role in municipal government while allowing the proper chain of command to remain intact.

While active communication between staff and Board is important and encouraged, discussions regarding Village policy matters should be kept between Board members and the Village Administrator to assure that the Village Administrator is best able to manage operations as well as assemble any information required to make sound policy decisions or bring those matters before Board for consideration.

The following polices can also be found in the employee handbook:

- Anti-harassment and Retaliation Policy.

- Electronic Communications & Information Systems Policy.
- Workplace Violence and Threats Prevention Policy.

Chapter 4: Finance

The budget acts as a policy tool with which to identify the community's priorities and is intended to implement the work plan for the upcoming year. This chapter is a good starting point and will offer you the basic knowledge to ask thoughtful questions regarding the budget process. You should review the current budget and any other financial plans as you learn about your role as a board member and use these documents in your decision-making process.

Chapter 46. Finance and Taxation § 46-6. Budget.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

A. Departmental estimates. On or before September 15 of each year, each officer, department and committee shall file with the Administrator an itemized statement of disbursements made to carry out the powers and duties of such officer, department or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Clerk and shall be designated as "Departmental Estimates," and shall be nearly uniform as possible for the main divisions of all departments.

B. Finance and Personnel Committee to prepare.

(1) Budget to include. On or before October 28 each year, the Finance and Personnel Committee of the Village Board shall prepare and submit to the Board a proposed budget presenting a financial plan for conducting the affairs of the Village for the ensuing calendar year. The budget shall include the following information:

(a) The expense of conducting each department and activity of the Village for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current year.

(b) An itemization of all anticipated income of the Village from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year.

(c) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.

(d) Such other information as may be required by the Board and by state law.

(2) The Village shall provide a reasonable number of copies of the budget thus prepared for distribution to citizens.

C. Hearing. The Finance and Personnel Committee shall submit to the Board at the time the annual budget is submitted the draft of an appropriation resolution providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation resolution to the Board, it shall be deemed to have been regularly introduced therein. The Board shall hold a public hearing on the budget and the proposed appropriation resolution as required by law. Following the public hearing, the proposed appropriation resolution may be changed.

Financial Policies

State-Mandated Policies

The State of Wisconsin imposes many requirements for preparing the annual budget and managing the finances of the Village. For instance, the State requires that an annual or biannual budget be created listing all revenues and expenditures, that the public hearing notice include certain information, and that the public hearings are held regarding the proposed budget. The Village's fiscal year begins on January 1 and ends on December 31.

Municipally-Adopted Policies

The Village has also adopted several policies with regard to financial management and investment Policy, among others. Village Staff also rely on industry best practices to guide financial decisions when policies are not already established by the State or Board. Occasionally, the Village Treasurer, Village Administrator, or auditors may recommend additional financial management policies be reviewed and approved.

Fund Explanation

The Village's finances are divided into several separate fund types to facilitate proper management and use. Below is a basic description of each fund.

General Fund accounts for all revenues and expenditures that are not required to be accounted for in other funds. The General fund includes major property-tax based services such as general government, public safety, public works and culture, recreation and education.

Special Revenue Funds account for proceeds from revenue sources that are legally restricted to expenditures for specified purposes and accounted for in the special revenue funds.

Debt Service Fund is used to account for the annual principal and interest payments relating to the Village's general obligation long-term debt.

Capital Projects Fund accounts for the financial resources to be used for the acquisition or construction of major capital assets.

Enterprise Funds account for operations that are financed and operated in a manner similar to a private business. The operations of the Water and Sewer, are accounted for in the Village's enterprise funds.

Revenue Sources: Taxes, Licenses & Permit Fees, Charges for Services

A large percentage of the Village's annual revenue comes from local taxes and from fees charged for services provided by the Village where people are directly benefited. The property tax is levied on the value of real and personal property located in the Village. Municipalities in Wisconsin have been granted very little authority to levy other types of taxes, such as sales or income tax.

The Village also collects revenues through licenses and permits, and charges for services. Fees are charged for Village services such as the use of recreational facilities and the processing of building permits so that the users of those services are directly responsible for covering costs of providing the service.

Role of Intergovernmental Revenues

The non-property tax revenue source in the annual budget is the amount received in intergovernmental appropriations, particularly from the State. The following are revenues that the Village receives annually from the State.

State Shared Revenues This includes the "Shared Revenue" program for general operating aid and the "Expenditure Restraint" program that rewards communities for fiscal restraint of the general fund.

The State reallocates money collected through the personal income tax back to municipalities through the Shared Revenue program. Revenue is distributed among municipalities using a formula that consists of four components:

1. *Aid able Revenue Component*: This component of the formula aims to offset variances in taxable property wealth across the state.
2. *Per Capita Component:* This component is more broad-based and is allocated based on population.
3. *Public Utility Component:* This component provides payments to replace property tax revenues lost because utilities are exempt from property taxation.
4. *Minimum Guarantee & Maximum Growth Component:* This component is designed to prevent large annual shifts in payments.

Transportation Aid This program allocates State revenue to the Village to offset the Village's related street expenditures and is based on the miles of road in each municipality.

Tax Increment Districts (TIDs)

Tax Increment Financing (TIF) is an economic development tool that helps promote local tax base expansion by using property tax revenues to fund site improvements to attract new development or eliminate blight. A TID (Tax Incremental District) is the actual area designated for expansions and where improvements are being made. Owners of property in a TID pay the same rate of taxes that owners outside the TID pay. TID is neither a tax freeze nor a tax increase, but a special allocation method for taxes collected on property value increases within the district.

Property tax rates for the school, county, technical college, and municipality are based on the total taxable value of the property located in the TID at the time it is created (base year). Those organizations continue to receive this amount of property tax revenue during the life of the TID. As the value of the property increases due to development, the additional property tax revenue created “increment” is allocated to the municipality for a set number of years. Development costs are paid from these revenues before the added tax base is shared with other taxing entities.

The Village of Williams Bay currently has oneTax Increment Districts (TIDs).

Capital Improvement Plan (CIP)

The Village has a Capital Improvement Plan (CIP) as a planning document to anticipate future large expenditures. It is a tool to chart both capital revenue (including bonds, grants, interest payments, and transfers from the General Fund) and expenditures. Capital items are placed in the CIP so that the Village can plan for future funding needs and coordinate major construction and purchasing projects.

Chapter 5: Legal Issues

The Village Code establishes local law which governs matters of local concern within the Village and pertaining to its governance. In addition, the Village is a creature of state law and statutes adopted by the State Legislature together with state administrative code also apply and to the extent that the legislature has determined that certain state enactments are to be of statewide concern or that the courts have concluded that state law has primacy even with respect to local affairs, state law prevails. Ordinances and applicable statutes not only govern the actions of residents and visitors, but also the manner in which the Village and its elected and appointed officers and employees conduct business. Listed below are some of the more important legal topics of which you should be aware. However, it is important that you ask the Village Attorney or Village Administrator if you have questions on particular topics.

Village of Williams Bay Ordinances

The Village's Code constitutes a set of permanent rules of order and regulation of conduct within the Village. The Village Board is responsible for adopting, amending and repealing Village ordinances to meet the best interests of the Village. The Village Code addresses many aspects of local government, including but not limited to appointment and empowerment of committees, boards and commissions but also Village finance and taxation procedures, traffic and health and welfare regulations, the public peace and order and the procedural and substantive frameworks for local licenses and permits, the operation of public utilities, establishment of zoning, subdivision and building codes and rules governing the conduct of business by the Village Board, committees, boards, commissions and officers and employees of the Village. The code book can be found by visiting https://ecode360.com/WI3949

Public Meetings

All business transacted by the Village Board, its committees, commissions and boards on behalf of the Village must be undertaken in the course of a duty posted meeting. All meetings shall be open to the public in locations which are accessible to those who are interested in attending. Public notice and other criteria pertaining to the holding of meetings and the transaction of business are governed by Wisconsin's Open Meetings Law, Subch. V, Ch. 19, Wis. Stats. To transact business, a quorum of a governmental body must be present. Closed sessions, from which the public is excluded, are the exception to open meetings and must be conducted strictly in accord with State Statue 19.85, Wis. Stats., and interpreting case law.

Public Records

Wisconsin law holds that all persons are entitled to the greatest possible information about governmental affairs as well as pertaining to official acts undertaken by the officers and employees of a governmental body. Accordingly, Wisconsin has adopted a Public Records Law, found at Subch. II, Ch. 19, Wis. Stats., which defines and applies not only each of the physical forms of records subject to public review but, additionally, the type of records which may be accessed by the public. Interested persons may request access to and the making of copies of any public record without the necessity of expressing a reason; therefore, subject to certain exceptions. Questions pertaining to the application of the Public Records Law to a specific request for access should be referred to the Village Attorney. **Board members, when communicating in any manner on Village business, should be aware that ALL Village communication, with few exceptions, are subject to public records law.** Additional information can be found in Chapter 1-16 Public Records.

Conflicts of Interest

State law and local ordinances define the proper course of action to take when there is or may be a conflict of interest on the part of an officer or employee. In particular, state and local ethics codes provide guidelines for dealing with questions concerning potential or actual conflicts of interest.

A Village Board member with a personal or financial interest in proposed action should disclose to the Board the nature of their interest prior to debate or, in some circumstances, before action is taken in the form of a vote. Because both elected and appointed officers and employees may influence the Village Board in matters in which they have a personal or financial interest, such interests should be disclosed to avoid either the appearance of or actual impropriety.

Sometimes, it is not clear whether or not a conflict of interest, as defined by law, is present. Even though it may be legal to act on a matter, it may give the appearance of impropriety to do so. Questions regarding conflict of interest can be directed to the Village Attorney.

1. **Financial and Personal Interest Prohibited.** No official or employee, whether paid or unpaid, shall engage in any business or transaction, nor shall such official or employee act in regard to financial or other personal interest, direct or indirect, when such actions are incompatible with the proper discharge of their official duties or when such actions impair their independence of judgment or action in the performance their official duties.

2. **Definitions:**
   - **a.** "Financial interest" means any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.
   - **b.** "Personal Interest" means any interest arising from blood or marital relationships or from business or political associations, whether or not any financial interest is involved.
   - **c.** “Person” means any person, corporation, partnership or joint venture.

3. **Specific Conflicts Enumerated:**
   - **a.** Incompatible Employment. No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of their official duties, unless otherwise permitted by law and unless disclosure is made as herein provided.
   - **b.** Disclosure of Confidential Information. No official or employee shall disclose confidential information concerning the property, government or affairs of the Village nor shall they use such information to advance the financial or other private interest of themself or others.
   - **c.** Representing Private Interests Before Village Agencies or Courts. No officer or employee shall appear on behalf of any private person, other than himself or herself, his or her spouse or minor children, before any Village agency or municipal court. However, a member of the Board may appear before Village agencies on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.

Accepting Gifts

Neither officers nor employees of the Village should accept gifts, favors or hospitality where it could be expected that they may be offered to influence official actions or be considered as a reward for an official act or which might impair the independence of your judgment. Per the *Code of Ethics for Local Government Officials, Employees and Candidates*: If a Village Official, other than a Village Employee, receives anything of value not authorized by the ethics code the Village Official shall not retain it, but shall deposit the money or the equivalent cash value or anything of value with the Village Treasurer or return the payment or thing to the payer or giver. The Village Attorney should be consulted if questions related to acceptance of gifts arise.

Chapter 6: Land Uses

Planning & Zoning

Planning and zoning are methods of achieving the orderly physical development of a community. Planning lays out the intended path of development for a Village and is typically done through a formal comprehensive plan. The Village Board, makes decisions regarding the planned development of public infrastructure in the Village through the adoption of the 2023 Comprehensive Plan, Capital Improvement Plan, and other long-range plans, such as an economic development plan. Community Planning also prepares trend reports, which provides a statistical snapshot of development changes in the Village of Williams Bay throughout the previous calendar year. This helps in considering the future needs of residents and businesses and how current decisions will affect that future.

The Village has adopted extensive Zoning Ordinance Regulations (Chapter 390. Zoning) to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the community. These zoning ordinance regulations provide the legal basis for facilitating thoughtful development and also aids long-range plans. The zoning ordinance regulates use of land and structures, lot coverage, population distribution and density, and the size and location of structures to promote the safety of citizens and efficient use of public infrastructure. Zoning districts permit various uses. Property owners must apply for a zoning permit and pay any applicable fees whenever a change or update in zoning is requested. Their request for a zoning designation or change will first be brought before the Plan Commission, who will make a recommendation to the Board.

Annexation

Annexation is a way for municipalities to expand and protect their borders. In some instances, Village's may wish to annex neighboring land in order to gain additional land for development. In other cases, residents living outside Village limits may request that they be annexed so that they may receive Village services such as water and sewer. There are several methods to accomplish annexation, including: 1) direct annexation by unanimous approval (the most widely-used practice), 2) direct annexation, 3) annexation by residents' referendum, 4) annexation of owned territory, and 5) annexation on Village initiative by referendum and court order. Further questions regarding annexation may be directed to the Village Administrator or Zoning Administrator.

Variances

Residents and business owners are able to apply for accessory uses permitted by right, conditional use and temporary use permits from the Zoning Ordinance when they desire to use land or buildings in a way that doesn't conform to the Ordinance. This application is to be filed with the Zoning Administrator.

Chapter 7: Board Conduct

Ultimately, you are elected by the citizens, and are responsible solely to them. However, you may wish to consider the following advice with respect to your conduct as a representative of the Village of Williams Bay.

Effectiveness & Efficiency

Because of the complex nature of municipal government, it can sometimes seem difficult to make decisions and act in an efficient and effective manner. It is important to work as both a leader and a team member in making decisions that affect the Village. Keeping these suggestions in mind can help to ensure that each board member, as well as the Board as a whole, is able to most effectively accomplish their goals.

Respect

Each Village Board member and member of the public provides a unique perspective. It may be helpful, as you join the Village Board, for you to share with your colleagues your background and special interests, and to learn as much about their perspectives as you can.
This mutual learning will assist in the development of both your professional and personal relationships. The best Village Board is one in which members have strong individual identities but work effectively as a team while always showing each other the utmost respect.

Compromise

All Village Board members have a responsibility to represent a diverse community. Being able to pass any legislation requires that individuals are tolerant of other's viewpoints. Part of the democratic process is the difference in opinion of our representatives; it is ineffective, however, to allow that difference to halt the decision-making process. The art of compromise is very important in Village Board discussions, as it takes a majority vote to achieve anything. When facing opposition, try to understand the values that are driving the individual. Work for creative solutions that may or may not be the first choice of the parties involved, but address the core needs and values of each party. Remember, all formal actions of the Village Board require over half of the attending members, unless it is an issue that requires a two-third majority, affirmative votes. Also, remember that if one of your fellow Village Board members opposes you on a specific issue, they may be your biggest supporter on the next one.

Trustees as Leaders

As a Village Board member, you are asked to be a leader. While it is your job to represent your constituents, it is also your job to help them see the bigger picture. Sometimes, government issues are complicated and not easily understood by the general public. During those times, you should work to help your constituents understand the issue. Occasionally, you may even need to take a leadership role contrary to the view of your constituents based on your position as an educated Board person looking out for the best interests of the community as a whole.

Process vs. Product
Village Board members must balance the value of public input in meetings with the value of decision making. Though it is important to allow public comment, drawn out or repetitive comments prolong Board discussion and may leave little time for productive discussion on items found later in the agenda.

Conflict Management
Although certain topics may ignite personalities and anger both Village Board members and members of the public, little is accomplished when there is a lack of courtesy for others. It is important that the Village President maintain control of meetings and that Board not get drawn in by emotional members of the public.

Personal Attacks
Attacks on individuals, whether Village Board members, staff, or the general public, are never appropriate. If an individual does or says something wrong, you should not hesitate to address it. Most often, however, the appropriate time and place to address problems is not during a public meeting. This includes addressing work product issues with staff.

This Too Shall Pass
During times of high conflict, it is sometimes hard not to take problems personally, take them home or take them out on others. Keep in mind that these issues will fade and will be replaced by new ones. While it is your job to address difficult issues, it is understood that you will never be able to completely solve many of them. The key is to keep a positive perspective and work with the other members of your team.

Interacting with the Public

You have been elected by the public to represent the public. Both in formal meetings and daily life on the street, a large component of your job is to be attentive to their concerns. These are opportunities for you to inform them about what the government is doing and gather their opinion on matters that concern the Village government.

This document already addressed the public's role during Village Board meetings and public hearings. In addition to these circumstances, you will have the opportunity to interact with the public as you make public appearances and talk to individuals on a daily basis. At such appearances, you are representing the Village. They are opportunities for you to explain your position on issues, respond to citizen complaints, test new ideas, or ask for citizen involvement on a project. It is also important to keep in mind that what you say may influence what people will think about the Village for years to come.

As a Village Board member, you can expect many questions and complaints from the public. By answering honestly and being available to provide information whenever possible, you can make your life, as well as other Village officials' and staff members', much easier. Often you will be able to answer a question or complaint yourself. If you need to pass the question on to

another individual, follow up to make sure that that person adequately addressed the citizen's needs. When addressing citizen requests for action, it is always appropriate to offer to look into the situation personally or discuss with staff.

No matter what the issue, you should welcome all questions and/or complaints. They often provide valuable insights and help you to better represent citizens. While you may occasionally be inclined to dismiss some complaints, it is almost always in the Village's best interest for you to remain attentive and professional when interacting with the public.

Dealing with the Media

Especially if considering a controversial decision, working with the media can be one of the most challenging aspects of your position as a board member. Expect media representatives to be present at many Village functions. Keep in mind that it is their job to get the news that you are making to the rest of the community. Building a positive relationship with journalists can help you both to attain your goals.

Establishing good relations with local newspapers, radio stations, and TV channels is a big step toward these goals. By welcoming reporters and sharing relevant information with the media, you will be building a relationship that can benefit you when news coming from Village Hall may be controversial. Whenever, possible, avoid using the phrase "no comment" or refusing to answer questions, as it breaks down Media-Board relationships and often pushes a reporter to look harder for Board faults. "I don't have the answer right now, but I can follow up and get back to you," is always an appropriate way to answer a question that you don't have the answer to at the moment. Remember that you can always refer media inquiries to the Village Administrator's office.

Make sure that when you talk with reporters, they receive all of the facts and fully understand the details of a situation. Sometimes, governmental procedures can be complex; the additional time that it takes to explain something is well worth it. If necessary, follow up with reporters. If you feel it is appropriate, volunteer to review an article before it goes to print in order to check its accuracy. Don't be afraid to contact them if there is an inaccuracy in information they provide to the public.

Chapter 8: Directory

Village of Williams Bay Contact

250 Williams Street, PO Box 580
Williams Bay, WI 53191
(262) 245-2700

Departments

Village Hall: 262-245-2700

David Lothspeich, Village Administrator	Ext. 402	Cell: 847-421-7715
Tina Kolls, Village Clerk	Ext. 405	Cell: 262-949-5024
Jennifer Wiese, Treasurer	Ext. 403	Cell: 262-949-1444
Cynthia Stanek, Utility/Admin Asst.	Ext. 404	Cell: 815-201-4872

Police Department: 262-245-2710

Justin Timm, Police Chief	Ext. 410	Cell: 262-581-3061

Public Works/Streets/Water:

Wayne Edwards, Public Works Director	Cell: 262-903-1764

Recreation Department:

Ryan Knop, Recreation Director	Cell: 262-294-1908

Library: 262-245-2709

Joy Schnupp, Library Director	Cell: 262-325-2985

Fire Department: 262-245-2712

Doug Smith, Fire Chief	Cell: 262-949-2203

Emergency Medical Services (EMS) Department:

Rich Gluth, Rescue Squad Captain	Cell: 262-325-0048

Harbor/Boat Launch: 262-581-7872

Nick Asta, Harbor Master	Cell: 480-518-5954

Building (contracted): 262-245-2704

Mike Moore (Safebuilt), Building Inspector	Ext. 415	Cell: 262-202-4358

Zoning (contracted):

Allision Schwark, Zoning Administrator	Ext. 407	Cell: 920-763-5531

Additional Resources

League of Wisconsin Municipalities

122 W Washington Ave, Suite 300
Madison WI 53703 608-267-2380
www.lwm-info.org

The League is a voluntary not-for-profit association that works with local governments and provides legal resources, conference and networking opportunities, educational handbooks and publications for elected officials and appointed staff, assistance on a multitude of topics via their website, lobbying for municipalities at the state and federal level, and opportunities for municipalities to participate in insurance and investment pools to strengthen bargaining and buying power.

Legislative Bulletin
The League provides a weekly update covering proposed legislation at the State level on their website. It is a helpful way to remain up-to-date on State legislation that may affect Williams Bay residents. You can subscribe to the Legislative Bulletin and Capitol Buzz for weekly updates.

UW-Extension, Local Government Center

111 Pyle Center, 702 Langdon Street
Madison, WI 53706
608-262-9961
https://localgovernment.extension.wisc.edu/

The Government Center provides a variety of educational options to assist municipalities, including: workshops, conferences, online and print educational materials, research, and assistance in special requests from governments.

Walworth County, Wisconsin

Government Center
100 W Walworth Street
Elkhorn, WI 53121
Phone: 262-741-4241
https://www.co.walworth.wi.us/

Stay up to date with news and announcements happening at the Walworth County Level. Subscribe to *Alert Sense* for updates including, but not limited to: emergency notifications, government jobs, new flash, calendars, upcoming meetings and agendas, and posted meeting minutes. https://www.co.walworth.wi.us/291/Emergency-Notification-Alerting-System

State of Wisconsin

Listed below are some of the potentially helpful resources and contact information for various State agencies.

Department of Revenue	(608) 266-2772	*https://www.revenue.wi.gov/*
Department of Natural Resources	(608)266-2621	*www.dnr.state.wi.us*
Department of Transportation	(715) 836-2891	*www.dot.state.wi.us*
Bureau of Transit & Local Roads	(608) 266-2350	*Website*
State Ethics Board	(608)266-8123	*https://ethics.wi.gov/*
Wisconsin Elections Board	(608) 266-8005	*www.elections.state.wi.us*

Appendix A:

Chapter 110 Village Board

Village President and Board

Chapter 110. Village Board

§ 110-1. Composition.

The Village Board shall consist of the Village President, who shall be elected in odd-numbered years for a two-year term, and six trustees, three of whom shall be elected in even-numbered years for two years, and three of whom shall be elected in odd-numbered years for two-year terms.

§ 110-2. Compensation and expense reimbursement.

[Added 4-2015]

Salaries and expense reimbursement levels as well as the manner of their payment for the Village President and Village Trustees will be established by resolution of the Village Board and reviewed annually in January by the Village Board.

§ 110-3. Village Board committees.

The committees of the Village Board shall be appointed annually by the Village President at the organization meeting and shall comprise the following committees:

A. Finance and Personnel. This Committee is responsible for the formulation of the annual budget and annual tax levy and all personnel concerns including collective bargaining agreements. All contracts with the Village will be reviewed and endorsed by this Committee.

B. Streets and Highways. This Committee administrates all matters concerning Village streets, highways, sidewalks and stormwater drainage. This Committee works closely with Director of Public Works on all matters including, but not limited to, the formulation of an annual budget which is then submitted to the Finance and Personnel Committee. This Committee is responsible for the maintenance of all public works buildings.

C. Protective Services. This Committee administrates all matters concerning Village Fire Department, Police Department, Emergency Medical Service (Rescue) Squad, and Dive Team. This Committee works closely with the Chiefs of the above-mentioned departments on all matters including, but not limited to, the formulation of an annual budget which is then submitted to the Finance and Personnel Committee.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

D. Parks and Lakefront.

(1) This Committee administrates all matters concerning Village parks, lakefront and Park District. This Committee works closely with Director of Public Works and the Park District on all matters including, but not limited to, the formulation of an annual budget which is then submitted to the Finance and Personnel Committee.

(2) This committee is also responsible for the maintenance of the following buildings: Village Hall, Field House, Lakefront Concession Building, Library Hall, Beach House, Horvath Building and the pavilion at Edgewater Park.

E. Building, Zoning and Ordinance. This Committee works closely with the Building Inspector on all matters regarding the issuance of building and zoning permits and zoning issues. This Committee also is responsible for ordinance development, adoption and codification.

F. Water and Sewer. This Committee administrates all matters concerning the Water Utility and Sewer Department within the Village with the powers and duties as other committees of the Village Board, governed by § 110-3 of this Code, including selection and number of members of such Committee. This Committee works closely with Director of Public Works including, the formulation of an annual budget.

§ 110-4. Residency required.

[Amended 8-31-2020 by Ord. No. 2020-03]

All members of Village Board Committees established pursuant to § 110-3 of this chapter shall reside within the corporate limits of the Village of Williams Bay.

§ 110-5. Village Board bylaws.

A. Regular meetings. The regular meetings of the Village Board shall be held in the Village Hall on the first and third Mondays of each month at 6:30 p.m., unless noticed otherwise. The Board may adjourn any regular meeting to any future date at which new business may be introduced as well as unfinished business completed.

[Amended 7-5-2022 by Ord. No. 2022-11]

B. Presiding officer. The President or presiding officer shall preside at all meetings and preserve order, deciding all questions of order, subject to an appeal to the Board.

C. Calling meetings to order. The President shall take the chair at the hour appointed and immediately call the meeting to order. In the absence of the President, the Clerk or, in the Clerk's absence, any member of the Board may call the meeting to order, and thereupon the Board shall appoint one of its members President Pro Tempore. In the absence of the Clerk, the Board may appoint one of the members present to serve as Clerk during the session. The Chair shall confirm public notice compliance with the Clerk or other Village staff representative.

[Amended 1-15-2018 by Ord. No. 2018-1]

D. Order of business. The business of the Board shall be transacted in the following order:

[Amended 6-16-2025 by Ord. No. 2025-06]

(1) Roll call.

(2) Reading the minutes of the preceding meeting and approving same if correct, correcting mistakes if any occur.

(3) Public comments. *The public may speak on any item that is not included on this agenda as a "Public Hearing or Forum." Anyone who wishes to comment should identify himself or herself and provide his or her local address. Board members may discuss any matter raised by the public. However, the Board will refrain*

from extensive dialogue and should not take action on matters raised by the public during a public comment period. Referrals to committees or staff members might be made. Members may ask the commenter to clarify his or her remarks. The Board President or the presiding officer will maintain control of the meeting.
(4) Consent agenda.
(5) Presentation of accounts and petitions.
(6) Plan Commission.
(7) President's remarks.
(8) Ordinances and resolutions.
(9) Committee reports.
(10) Public comments.
(11) Adjournment.

E. Passage of ordinances.
(1) Every proposed ordinance shall have two separate readings previous to its passage but shall not be read at any other time than regular sessions except by unanimous consent. The second reading may be waived by vote of the Board.
(2) The second reading of an ordinance shall be by section at which time amendments may be offered. If no amendments are made, the question shall be, "Shall the ordinance pass?" If amendments are offered and made, the chair shall so report and the ordinance shall be so read as amended before the question of its passage is taken.

F. Rules of procedure. The rules of parliamentary practice embraced in *Robert's Rules of Order, Newly Revised*, shall govern the Board where applicable and where not inconsistent with the standing rules, bylaws and order of the Board.

G. Special meetings.
(1) How called. Special meetings may be called by the President or any two trustees in writing filed with the Clerk. If at least 24 hours remain before such meeting, the Clerk shall notify each member of the Board of the time, place and purpose of such special meeting by mailing a written notice thereof to each member of the Board and by telephoning him, if possible. If less than 24 hours but at least six hours remain before such meeting, the Clerk shall give notice to each trustee by personal service and by telephone, if possible. No special meeting shall be called upon less than six hours' notice except with the unanimous consent of all members of the Board expressed orally or in writing.
(2) Statutes adopted. Section 19.85, Wis. Stats., is hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by the provisions of any statute incorporated by reference herein is required or prohibited by this section.

H. Business to be presented by Trustee. No business shall be considered by the Board unless presented by a member of the Board.

I. Approval of claims. Every account presented to the Board shall, if required, be verified by affidavit as provided by law and shall not be allowed or directed to be passed until it shall have been examined and certified as correct by the proper committee and reported to and audited by the Board.

J. Amendment of bylaws. These bylaws may be amended, stricken out or added to at any regular meeting of the Board upon a majority vote of all the members, provided that notice thereof shall be given at the regular meeting of the Board immediately preceding the one in which such amendment is to be acted upon.

K. Consent agenda.

[Added 6-6-2016 by Ord. No. 2016-6]

(1) Criteria. The Village Clerk may create a subsection on any Board agenda entitled "consent agenda." In a consent agenda, the Clerk shall place matters that, in the Clerk's judgment, are routine and noncontroversial and do not require a super majority vote or separate action by the Board.

(2) Procedure. The following procedure shall apply when a consent agenda is used:

(a) No separate discussion or debate may be permitted on any matter listed on the consent agenda except as provided in Subsection K(2)(b).

(b) A single motion, seconded and adopted by a majority vote of the Board shall be required to approve, adopt, enact or otherwise favorably resolve all matters listed on the consent agenda.

(c) Any member of the Board may request removal of any item included in the consent agenda. At the time the consent agenda is considered, any such item shall be removed without debate or vote.

(d) If any item has been removed from the consent agenda in accordance with this subsection, that item shall be considered by the Board under the appropriate heading of the regular agenda of the Board.

Appendix B:
Village Code Chapter 40 – Ethics

Chapter 40. Ethics

§ 40-1. Declaration of policy.

A. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; government decisions and policy be made in the proper channels of the government structure; public office not be used for personal gain; and the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a Code of Ethics for all Village officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the Village. The purpose of the code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Village and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Village.

B. The Village Board recognizes that the representatives of the Village are drawn from society and therefore cannot and should not be without all personal and economic interest in the decisions and policies of government and that citizens who serve as Village officials and employees retain their rights as citizens to interest of a personal and economic nature. The standards of ethical conduct for Village officials and employees need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society and those conflicts which are substantial and material and that Village officials and employees may need to engage in employment, professional or business activities other than official duties in order to support themselves or their families and to maintain investments which activities or investments do not conflict with the specific provisions of this code. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best public interest. It is the intent of the Village Board that in its operations the Board of Ethics shall protect to the fullest extent possible the rights of individuals affected.

§ 40-2. Responsibility of public office.

Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, State and Village and thus to foster respect of all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.

§ 40-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ANYTHING OF VALUE
Any money or property, favor, service, payment, advance, forbearance, loan or promise of future employment, but does not include compensation and expenses paid by the state, fees, honorariums and expenses which are permitted and reported under § 19.56, Wis. Stats., and political contributions which are reported under Ch. 11, Wis. Stats.

FINANCIAL INTEREST
Any interest which shall yield directly or indirectly a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.

PERSON
Any person, corporation, partnership or joint venture.

§ 40-4. Conflict of interest.

A. No official or employee shall accept anything of value, whether in the form of a gift, service, loan or promise, from any person which may tend to impair his independence of judgment or action in the performance of his official duties.
B. It is not a conflict of interest for any public employee or official to receive a gift or gratuity that is an unsolicited item of nominal intrinsic value.
C. No public official or employee shall engage in any business or transaction or shall act in regard to any financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties for the benefit of the public, contrary to the provisions of this Code or which would tend to impair his independence of judgment or action in the performance of his official duties.
D. No public official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties unless otherwise permitted by law, unless disclosure is made as hereinafter provided.
E. No public official or employee and no business in which a Village official or public employee holds a 10% or greater interest may enter into a contract with the Village involving a payment or payments of more than $3,000 within a twelve-month period unless such official or employee has first made a written disclosure of the nature and extent of such relationship or interest to the Board and to the department acting for the Village in regard to such contracts. This subsection does not affect the application of § 946.13, Wis. Stats.
F. No official or employee shall disclose confidential information concerning the property, government or affairs of this Village nor shall he use such information to advance the financial or other private interest of himself or any other person.
G. Any member of the Village Board who has financial interest in any proposed legislation before the Village Board shall disclose on the records of the Board the nature and extent of such interest prior to or during the initial discussion on such legislation. Any other official or employee who has a financial interest in any proposed legislative action of the Village Board and who participates in discussion with or gives an official opinion or recommendation to the Village Board shall disclose on the records of the Board the nature and extent of such interest.

§ 40-5. Ethics Board.

A. There is hereby created an Ethics Board consisting of three members and one alternate who shall serve without compensation unless the Village Board otherwise provides. The members of the Board of Ethics shall be residents of the Village and shall not be elected officials, full-time appointed officials, or Village employees nor shall they be currently serving on any other Village board or commission.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
B. Each member shall be appointed by the President and subject to the confirmation by the Village Board. The Village Attorney shall furnish the Board whatever legal assistance necessary in carrying out its functions. Terms of office shall be three years, except that when the initial appointments are made one member shall be appointed for one year, one for two years and one for three years.
C. The alternate shall serve on the Board when one of the members of the Board is unavailable. The term of the alternate shall be for three years. The Ethics Board shall elect its own Chairperson and Vice Chairperson.

§ 40-6. Duties of Ethics Board.

A. The Ethics Board shall adopt and develop written rules which shall be submitted to the Village Board for approval. A copy of such rules shall be filed with the Village Clerk.

B. Any person to whom this chapter applies may apply to the Ethics Board for an advisory opinion and shall be guided by the opinion rendered. Such person shall have the opportunity to present his interpretation of the facts at issue and of the applicability of provisions of the Code before the advisory decision is rendered. The Board's

deliberations and action upon such applications shall be in meetings not open to the public. Records of the Board's opinions, opinion requests and investigations of violations shall be closed to public inspection. The Board, however, may make such records public with the consent of the individual requesting the advisory opinion.
C. The Board shall investigate any complaint properly filed with it.
D. The Board shall accept from any person or make upon its own motion a verified complaint in writing which shall state the name of the officer or employee alleged to have committed a violation of this chapter and which shall set forth the particulars thereof. The Board shall forward within 10 days a copy of the complaint to the officer or employee who is accused. If no action on the verified complaint is taken by the Board within 60 days, the complaint shall be void.
E. Following the receipt or motion of a verified complaint, the Board may make preliminary investigations with respect to alleged violation of this chapter. No preliminary investigation of the activities of any officer or employee may be initiated unless such officer or employee is notified in writing. The notice shall state the exact nature and purpose of the investigation, the individual's specific actions or activities to be investigated and a statement of such person's due process rights.
F. If after such investigation the Board finds that probable cause exists for believing the allegations of the complaint, it shall conduct a hearing on the matter which shall be held not more than 30 days after such finding. The Board shall give the accused at least 20 days' notice of the hearing date. Such hearings shall be at open session unless the accused petitions for a hearing closed to the public. The rules of criminal evidence shall apply to such hearings. All evidence, including certified copies of records and documents which the Board considers, shall be fully offered and made part of the record in the case. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.
G. During all stages of any investigation or proceeding conducted under this section, the accused or any person whose activities are under investigation shall be entitled to be represented by counsel of his own choosing.
H. The accused or his representative shall have an adequate opportunity to examine all documents and records to be used at the hearing under Subsection **F** at a reasonable time before the date of the hearing as well as during the hearing; bring witnesses; establish all pertinent facts and circumstances; and question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.
I. The Board shall have the power to compel the attendance of witnesses and to issue subpoenas granted other boards and commissions under § 885.01(3), Wis. Stats.
J. Upon conclusion of the hearing, the Board shall file its decision within five days in writing signed by all participating Board members with findings of fact and conclusions of law concerning the propriety of the conduct of the officer or employee and, if appropriate, refer the matter to the Village Board or other proper authority with a recommendation for suspension, removal from office or employment of other disciplinary action.
K. The affirmative vote of a majority of the Board shall be required for any action taken by the Board, with the exception that action taken by the Board pursuant to a hearing conducted under Subsection **F** shall require a unanimous vote.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Wisconsin Statute 19.59.
Codes of ethics for local government officials, employees and candidates

(1)

(a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. 11. This paragraph does not prohibit a local public official from obtaining anything of value from the Wisconsin Economic Development Corporation or the department of tourism, as provided under s. 19.56 (3) (f).

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

(br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under ch. 11, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public official from taking official action with respect to any proposal to modify a county or municipal ordinance.

(f) Paragraphs (a) to (c) do not apply to the members of a local committee appointed under s. 289.33 (7) (a) to negotiate with the owner or operator of, or applicant for a license to operate, a solid waste disposal or hazardous waste facility under s. 289.33, with respect to any matter contained or proposed to be contained in a written agreement between a municipality and the owner, operator or applicant or in an arbitration award or proposed award that is applicable to those parties.

(1m) In addition to the requirements of sub. (1), any county, Village, village or town may enact an ordinance establishing a code of ethics for public officials and employees of the county or municipality and candidates for county or municipal elective offices.

(2) An ordinance enacted under this section shall specify the positions to which it applies. The ordinance may apply to members of the immediate family of individuals who hold positions or who are candidates for positions to which the ordinance applies.

(3) An ordinance enacted under this section may contain any of the following provisions:

(a) A requirement for local public officials, other employees of the county or municipality and candidates for local public office to identify any of the economic interests specified in s. 19.44.

(b) A provision directing the county or municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(c) A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any local public official or other employee of the county or municipality who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and other employees of the county or municipality or on the part of former local public officials or former employees of the county or municipality.

(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding $1,000 for each offense. A minimum forfeiture not exceeding $100 for each offense may also be prescribed.

(4) This section may not be construed to limit the authority of a county, Village, village or town to regulate the conduct of its officials and employees to the extent that it has authority to regulate that conduct under the constitution or other laws.

(a) Any individual, either personally or on behalf of an organization or governmental body, may request of a county or municipal ethics board, or, in the absence of a county or municipal ethics board, a county corporation counsel or attorney for a local governmental unit, an advisory opinion regarding the propriety of any matter to which the person is or may become a party. Any appointing officer, with the consent of a prospective appointee, may request of a county or municipal ethics board, or, in the absence of a county or municipal ethics board, a county corporation counsel or attorney for a local governmental unit an advisory opinion regarding the

propriety of any matter to which the prospective appointee is or may become a party. The county or municipal ethics board or the county corporation counsel or attorney shall review a request for an advisory opinion and may advise the person making the request. Advisory opinions and requests therefor shall be in writing. It is prima facie evidence of intent to comply with this section or any ordinance enacted under this section when a person refers a matter to a county or municipal ethics board or a county corporation counsel or attorney for a local governmental unit and abides by the advisory opinion, if the material facts are as stated in the opinion request. A county or municipal ethics board may authorize a county corporation counsel or attorney to act in its stead in instances where delay is of substantial inconvenience or detriment to the requesting party. Except as provided in par. (b), neither a county corporation counsel or attorney for a local governmental unit nor a member or agent of a county or municipal ethics board may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

(b) A county or municipal ethics board, county corporation counsel or attorney for a local governmental unit replying to a request for an advisory opinion may make the opinion public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested and may make public a summary of an advisory opinion issued under this subsection after making sufficient alterations in the summary to prevent disclosing the identities of individuals involved in the opinion. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person waives the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the county or municipal ethics board, the county corporation counsel or the attorney for the local governmental unit in connection with the request for an advisory opinion.

(5) Any county corporation counsel, attorney for a local governmental unit or statewide association of local governmental units may request the commission to issue an opinion concerning the interpretation of this section. The commission shall review such a request and may advise the person making the request.

(6)

(a) Any person who violates sub. (1) may be required to forfeit not more than $1,000 for each violation, and, if the court determines that the accused has violated sub. (1) (br), the court may, in addition, order the accused to forfeit an amount equal to the amount or value of any political contribution, service, or other thing of value that was wrongfully obtained.

(b) Any person who violates sub. (1) may be required to forfeit not more than $1,000 for each violation, and, if the court determines that a local public official has violated sub. (1) (br) and no political contribution, service or other thing of value was obtained, the court may, in addition, order the accused to forfeit an amount equal to the maximum contribution authorized under s. 11.1101 (1) for the office held or sought by the official, whichever amount is greater.

(7)

(a) Subsection (1) shall be enforced in the name and on behalf of the state by action of the district attorney of any county wherein a violation may occur, upon the verified complaint of any person.

(b) In addition, and supplementary to the remedy provided in sub. (7), the district attorney may commence an action, separately or in conjunction with an action brought to obtain the remedy provided in sub. (7), to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(c) If the district attorney fails to commence an action to enforce sub. (1) (a), (b), or (c) to (g) within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. The attorney general may then bring an action under par. (a) or (b), or both.

(cm) No complaint alleging a violation of sub. (1) (br) may be filed during the period beginning 120 days before a general or spring election, or during the period commencing on the date of the order of a special election under s. 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

(cn) If the district attorney for the county in which a violation of sub. (1) (br) is alleged to occur receives a verified complaint alleging a violation of sub. (1) (br), the district attorney shall, within 30 days after receipt of the complaint, either commence an investigation of the allegations contained in the complaint or dismiss the complaint. If the district attorney dismisses the complaint, with or without investigation, the district attorney shall notify the complainant in writing. Upon receiving notification of the dismissal, the complainant may then file the complaint with the attorney general or the district attorney for a county that is adjacent to the county in which the violation is alleged to occur. The attorney general or district attorney may then investigate the allegations contained in the complaint and commence a prosecution.

(d) If the district attorney prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the county wherein the violation occurs. If the attorney general prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the state.

Appendix C: Village Administrator

Chapter 80. Officers and Employees

§ 80-3. Village Administrator.

A. Village Administrator creation and purpose. In order that the various officers, officials and employees executing policies and administering the affairs of the Village of Williams Bay be operated as efficiently as possible under a system of part-time President and part-time Trustees, and to better insure confident, expeditious, efficient and harmonious administration in action and in respect to any activity, of any one or more of the Village's officers, officials and employees, and in order that there may be uniform administration of policy, there is hereby created the office of Village Administrator for the Village of Williams Bay.

B. Functions of Village Administrator.

(1) The Village Administrator shall be the administrative officer of the Village, responsible for the proper administration of the business and affairs of the Village, subject to those limitations imposed by the statutes of the State of Wisconsin, the ordinances of the Village of Williams Bay, and the resolutions and directions of the Village Board.

(2) Nothing herein shall be construed to conflict with the duties of the Village Board and other Village officers otherwise provided by statute and the ordinances of the Village of Williams Bay.

C. Appointment. The Village Administrator shall be appointed by the Village President and confirmed by the Village Board for a term of three years from the date of initial hire (or at the expiration of the term of an incumbent Village Administrator appointed prior to April 20, 2021) on the basis of merit, with due respect to training, experience, administrative ability and general fitness and knowledge of administrative and operational functions of municipal government. The Village Administrator shall be an officer of the Village of Williams Bay. Compensation therefor shall be as determined by the Village Board from time to time. Should the Village President decline to reappoint an incumbent Village Administrator, the Village Board may reappoint the incumbent Village Administrator to that office. [Amended 1-17-2022 by Ord. No. 2021-11]

D. General duties. The Village Administrator shall have the following general duties: [Amended 1-17-2022 by Ord. No. 2021-11]

(1) Board relations.

(a) Carry out directives of the Village Board which require administrative implementation, reporting promptly to the Village Board any difficulties encountered therein.

(b) Attending all meetings of the Village Board, assisting the President and the Village Board as required in the performance of their duties.

(c) Keep the President and Village Board regularly informed about the activities of the Administrator's Office and the current fiscal position of the Village by oral or written report at regular and special meetings of the Village Board.

(d) The Village Administrator shall make recommendations from time to time to the Village Board for improving the quality and efficiency of services performed by the Village and for improving the health, safety and welfare of the Village.

(2) Financial.

(a) Serve as the primary staff person in establishing and monitoring the annual operating budget in accordance with all statutory requirements.

(b) Oversee the work of the Treasurer and serve as the primary staff person responsible for monitoring the budget and answering budget inquiries of staff and elected officials. Perform certain accounting tasks to ensure separation of duties to the extent possible, including reviews, approve journal entries, approve all Village encumbrances, review and approve bank deposits.

(c) Serve as the purchasing agent for the Village, supervising all purchasing and overseeing the contracting for supplies and services. Prepare Village contracts for execution.

(3) Administration.

(a) Administer all day-to-day operations of the Village government, including the monitoring of all Village ordinances, resolutions, Village Board meetings and state statutes.

(b) Administer and direct the operation and maintenance of all Village-owned property, lands, buildings, improvements and equipment, and all public ways, ditches, drains and storm sewers, and where such duties are otherwise given to other officials, officers and employees of the Village, the Village Administrator shall assist the above officials, officers and employees as the Village Board may from time to time direct.

(c) Create drafts of administrative procedures, subject to review by the Village Board, to increase the effectiveness and efficiency of Village government.

(d) Oversee the engagement of outside consultants through drafting RFPs or bid requests, review bids and proposals and make a recommendation to the Village Board.

(e) Ensure the thorough and satisfactory completion of all contracted and consultant work.

(4) Legislative.

(a) Keep informed concerning current federal, state and county legislation and administrative rules affecting the Village.

(5) Human relations.

(a) Serve as personnel officer for the Village with responsibilities to ensure that complete and current personnel records, including specific job descriptions for all Village employees, are maintained; evaluate, in conjunction with department directors, the performance of all employees on a regular basis, recommend salary and wage scales for Village employees not covered by collective bargaining agreements, ensure that the Village employees have proper working conditions, and work closely with department heads to promptly resolve personnel problems or grievances.

(b) Administer or direct a designee to ensure that all employees, new and sustained, have had their benefit package fully explained and implemented.

(c) The Village Administrator shall work closely with department heads to ensure that employees receive adequate opportunity for training in order to maintain and improve their job-related knowledge and skills.

(d) Recommend to the Village Board the appointment, promotion and, when necessary, for the good of the Village, the suspension or termination of department directors.

(e) In consultation with the appropriate department director, be responsible for the appointment, promotion and, when necessary for the good of the Village, the suspension or termination of employees below the department director level.

E. [1] Change of duties. The Village Board may, from time to time, increase, decrease, change or otherwise modify the duties of the Village Administrator as the Village Board may, in its sole discretion, determine appropriate.

[1] Editor's Note: Former Subsection E , regarding personnel, and Subsection F, regarding budget and purchasing, as amended, were repealed 1-17-2022 by Ord. No. 2021-11. This ordinance also renumbered former Subsection G as Subsection E.

Appendix D: Quick Reference

Swearing-In: Prior to organizational meeting on the 3rd Tuesday in April, you must be sworn into your newly elected position.

Village Mail: Your mail is available for pick-up at Village Hall each day. The mailboxes are located in the main office.

E-mail/Tablet: You will be given a Village email account and a Village-issued tablet to use during your term. When your elected service has ended, the tablet needs to be returned to the Village. Please note: any information in your email account is considered public information. Please make an effort to check your email frequently as both staff and your constituents will use this as a means to contact you.

Paycheck and HR Forms: You are paid on a quarterly basis. Your check will be direct-deposited. The Village Treasurer will assist you in completing the appropriate paperwork to receive pay.

Municipal Code Book: The Williams Bay Village Code is available online on the Village's website.

Village Website: Village information, including Board packets, can be found on the Village website at https://www.williamsbay.org/

Meeting Schedules: Village Board meetings are held the 1st and 3rd Mondays of the month at 6:30 p.m.

Appendix E: Open Meetings/Public Records Training Materials

Double click any document for a larger PDF version.

Placeholder, modify for Williams Bay

OPEN MEETINGS TRAINING
Monroe Common Council
August 2, 2020
Daniel R. Bartholf, City Attorney

POLICY OF OPEN MEETINGS LAW

Section 19.81 of the Wisconsin Statutes provides:

(1) In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the **public is entitled to the fullest and most complete information regarding the affairs of government** as is **compatible with the conduct of governmental business.**

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly **held in places reasonably accessible to members of the public and shall be open to all** citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter **shall be liberally construed** to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

OPEN MEETINGS LAW APPLIES TO "MEETINGS" OF "GOVERNMENTAL BODIES"

Governmental bodies include:

- Monroe Common Council.
- Subunits - separate smaller body created by and consisting entirely of members of a parent body.
  - All committees of the council.
- Boards and commissions created by ordinance, resolution, rule or order. Examples [not inclusive]:
  - Board of Review
  - Board of Police and Fire Commissioners
  - Plan Commission
  - Zoning Board of Appeals
  - Board of Park and Recreation Commissioners
  - Board of Health
  - Housing Authority
  - Senior Citizens Board
  - Airport Board of Management
  - Visitors and Promotion Board
  - Fair Housing Committee
  - Business Improvement District Board
  - Ethics Board
  - Monroe Redevelopment Authority
  - Ad hoc Committees appointed by Common Council

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MEMORANDUM

DATE: **November 17, 2016**

TO: **Phil Rath**

FROM: **Daniel R. Bartholf**

RE: **Alderpersons Attending Closed Session of Committees that they are not a member**

Question: The question is whether alderpersons can attend closed session portions of committees that they are not a member.

Legal Opinion: It is my recommendation that alderpersons should not attend closed sessions of those committees that they are not a member. It is further recommended that alderpersons who attend open session of a committee to which they are not a member should not participate, even by asking questions or making statements, when the general public is not provided the same opportunity (i.e. public hearing).

Basis for Opinion: Pursuant to Open Meeting Laws § 19.82(2), a "meeting" is defined as "the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. **If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to vested in the body.** The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter …" The bolded language above which refers to one-half of the members present relates to negative quorum situations. A negative quorum will exist when there are enough members present to prevent the formation of a majority of the parent body. By way of example, if four salary & personnel members are meeting in closed session and one other non-committee alderperson sits in the closed session to listen, then that would be rebuttably presumed to be a negative quorum because five alderpersons could prevent the passing of any motion at a council meeting. Certainly, if two or more of the non-committee alderpersons are present, then that would be rebuttably presumed to constitute a quorum of the council and would be required to be noticed up with its separate agenda. This is part of the Eckstein ruling in which the Judge ruled against us.

The "rebuttable presumption" does allow the members of the council to overcome the presumption by proving that they did not discuss any subject that was within the realm of the council's authority. However, in closed session situations this presents significant challenges because those portions of meetings are not generally recorded. Testimony from the alderpersons themselves involved in the closed session would be viewed as self-serving and not likely to carry the burden of proving that he or she did not participate. Even testimony from the City Clerk or other City employees involved in the closed session would likely be questioned due to the significant policy decision by the State Legislature that all meetings should be open to its citizens and with appropriate notice. In contrast, those alderpersons that are present for open session committees that they are not members have a much better ability to prove that he or she did not participate in the meeting. Audio and video recording of the meetings and even testimony of general public would carry significant weight. The fact that the meeting was held in open session would not require heighten review by the courts. It would be my recommendation to those non-committee alderpersons not to participate in making statements or even asking questions as this would be viewed as exercising his or her duties of a council member. Finally, I would encourage, but not require, alderpersons to not sit at the committee table to avoid even the appearance that he or she is participating in the meeting (especially those meetings that are videotaped).

PUBLIC RECORDS TRAINING

Monroe Common Council
August 2, 2020
Daniel R. Bartholf, City Attorney

PUBLIC RECORDS LAW

Sections 19.31 through 19.39 of the Wisconsin Statutes constitute the Wisconsin Public Records Law.

Monroe Code 1-16 Public Records [incorporates by reference Sections 19.31 through 19.39 Wis. Stats.]

A. **What is a record?**

Wis. Stat. § 19.32(2)

"Record" means any material on which written, drawn, printed, spoken, visual, or electromagnetic information or electronically generated or stored data is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes:

a. Handwritten, typed, or printed documents.
b. Maps and charts.
c. Photographs, films, and tape recordings.
d. Computer tapes and printouts, CDs and optical discs.
e. Electronic records and communications.

To constitute a "record" the material must be created or kept in connection with official purpose or function of the agency. 72 Op. Att'y Gen. 99, 101 (1983); *State ex rel. Youmans v. Owens*, 28 Wis. 2d 672, 679, 137 N.W.2d 470 (1965). Content, not medium or format, determines whether or not a document is a "record" within the meaning of the public records law.

"Authority" is defined in § 19.32(1) and it includes state or local office, elective official, agency, board, commission, committee, council, department or public body created by the constitution or by any law or ordinance, or any formally constituted subunits of the aforementioned.

B. **Who is the custodian of a record?**

Wis. Stat. § 19.33

Legal custodians:

(1) An elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

(2) The chairperson of a committee of elected officials, or the designee of the chairperson, is the legal custodian of the records of the committee.

(4) For all other authorities, the authority must designate one or more persons as its legal custodian, but if no designation is made, the default is the authority's highest ranking officer and its chief administrative officer (if applicable). (i.e., absent other designations, see special rule under (5) below, then the committee or board can designate a legal custodian or its highest-ranking member which usually will be the chair if no designation is made).

(5) Special Rule: If members of an authority are appointed by another authority, then the appointing authority may designate a legal custodian. (i.e., Monroe Council appoints members to certain committees like plan commission, then the Council can also designate someone as the commission's legal custodian).



Newly Elected Leaders Toolkit

Life, Well Run

What's Inside?

You're a Newly Elected Official

Leading Your Community: A Guide for Elected Officials

Learning About Professional Managers

Key Facts about Professional Managers

Professional Local Government Management:
The Benefits to Your Municipality

Hiring a Professional Manager

Hiring a Professional Manager

Recruitment Guidelines for selecting a local government Administrator

ICMA Guidelines for Compensation

Determining the Value of Professional Administrator or Manager

Sample: Chief Administrator Job Descriptions

Model Employment Agreement (Editable)

Evaluating your Professional Manager

ICMA Manager Evaluations Handbook

You're a Newly Elected Official

Leading Your Community: A Guide for Elected Officials

Excerpted from the ICMA publication

Life, Well Run

Leading Your Community

A GUIDE FOR LOCAL ELECTED LEADERS

ICMA
Leaders at the Core of Better Communities

National League of Cities

Part I

Local Leadership: The Basics

You've got to think about big things while you're doing small things, so that all the small things go in the right direction.

—Alvin Toffler

Being a local elected official involves meeting, connecting, communicating, preparing, listening, responding, and being available to do the public's business. On a typical day, you might attend a neighborhood forum, meet with a local reporter, respond to e-mails from citizens, talk with the chief administrator about a neighborhood concern, review a proposed green building policy, make decisions at a regularly scheduled governing body meeting on land use, and talk to an unhappy constituent at the grocery store.

And there are atypical days: the day a severe storm damages your community, leaving citizens without power or a safe place to spend the night, or the day seven children are sent home from school with symptoms of a dangerous illness. That's the public's business, and your constituents will look to you to guide the community's response.

As an elected leader, you must be prepared to do the public's business every-day—from the routine, to the challenging, to the heart wrenching, to the almost impossible.

Like most local leaders, you face a constant pull between the tyranny of the immediate—problems, challenges, questions, demands that need attention NOW—and the desire to focus on the long-term well-being of your community. As an elected official, you play a fundamental role in the evolving goals, purposes, and direction of your community as you ensure that the needs of your community's residents are met every day.



Fast Fact

A recent National League of Cities (NLC) survey found that local elected officials spend 35 percent of their public service time doing services for people—providing information, handling complaints, and coordinating contacts between citizens with a problem and city staff.

Source: NLC, *Two Decades of Continuity and Change in American City Councils* (September 2004). Unless otherwise attributed, all statistics cited in "Fast Facts" are from this source.

The chapters in Part I focus on

- Building an effective leadership team within the local legal framework
- Setting policy goals and developing plans to support them
- Using meetings to support good decision making
- Communicating and connecting with your constituents
- Working with the chief administrator.

1

The Local Leadership Team

You can accomplish anything in life, provided you do not mind who gets the credit.

—Harry S Truman

Successful local leadership depends on working within the basic legal framework for your government, understanding key roles and responsibilities, and forging strong relationships with members of the local leadership team.

The Legal Framework

The legal framework under which your local government operates starts with your state law and delegated local powers, duties, and responsibilities.

Since the United States Constitution doesn't mention local governments, these entities are created and regulated by the states—which means that there are fifty different legal and political frameworks. Most state laws outline the powers of their local governments in a "charter."

If your local government has a charter, it is your community's constitution. Generally, a charter can be adopted, amended, or repealed only by a majority vote of a city's voters. Most charters cover a range of issues, including form of government, all aspects of elections and service as an elected official, legislative authority, powers of the governing body, responsibilities of the executive, financing and taxing, human resource policies, bonding, and more.

Preamble to the City of Dearborn Charter

We, the people of the City of Dearborn (Michigan), in order to provide a government which recognizes that human life and talent is our most important resource, and the development and enrichment of these our most important tasks, do adopt this charter. We acknowledge that political power is inherent in the people. We desire a framework of government in which all people can participate, by which policy objectives reflecting the people's goals can be fashioned and through which officials can be chosen in a democratic manner and held accountable for their actions.

While the success of your leadership team depends in large measure on the people who serve on it, the legal framework is an important guide to who does what and how you get your community's business done.

As a local elected leader, you should be familiar with the legal structure under which your government operates. Your state municipal league, chief administrative officer, and local government attorney are good resources for learning about your local government's legal framework.

A Word about Structure

A local government leadership team brings together elected local officials who are chosen individually by the public in the voting booth and full-time appointed professionals who are hired to do specific government jobs. The makeup of the leadership team can vary according to form of government. There are four forms of local government in the United States:

- **Mayor-council:** A directly elected mayor is the chief executive officer, and an elected council is the legislative body. The council is led by an elected council chair.
- **Council-manager:** An elected council serves as the legislative body, a directly elected mayor or someone elected from the council serves as the council chair, and a professional city manager hired by the council oversees day-to-day operations.
- **Commission:** Voters elect commissioners to a small governing body, and the commissioners handle both executive and legislative functions.
- **Representative town meeting:** Citizens serve as the policy-making body, and a small elected board of selectmen oversees implementation of the policies.

Fast Fact

According to NLC's recent survey, more than 96 percent of local governments use either the mayor-council (38 percent) or council-manager (58 percent) form of government. The average length of service for governing body members in mayor-council cities is 7.9 years, and in council-manager cities, 7.2 years. Nearly 30 percent of local elected officials are elected by districts, 45 percent at-large, and the remainder by a combination of district and at-large.

Roles and Responsibilities

Official roles are defined in charters, statutes, ordinances, and job descriptions. Practical roles evolve depending on community needs, the style of the mayor and chief administrative officer, and working relationships among elected officials.

Elected local officials are the **policy leaders.** In the mayor-council form, the elected mayor is both a policy leader and an executive leader for the community.

The chief administrative officer or city manager is the local government **management leader.**

Together, the elected leaders and chief administrative officer ensure that the local government works. They set the vision, provide the services, and guarantee a good quality of life in the community.

A Local Policy Leadership Team

Specific responsibilities of a local policy leadership team include

- Establish a community vision
- Develop long-term goals, priorities, and objectives
- Adopt policies to guide local programs and services
- Enact ordinances (local laws)
- Communicate with citizens about vision, priorities, programs, services, and community challenges
- Review and approve a comprehensive annual budget and capital improvement plan
- Oversee the effectiveness of the local government's programs
- Oversee management performance, including fiscal responsibility
- Respond to citizen complaints and requests, and coordinate responses with local staff
- Hire and evaluate the chief administrative officer
- Represent the local government and the community.

The City Manager or Chief Administrative Officer

Specific responsibilities of the city manager or chief administrative officer include

- Carry out the policies adopted by the elected officials
- Oversee enforcement of city ordinances
- Provide policy alternatives to support governing body action
- Manage all local services, including but not limited to public works, public safety, planning and economic development, parks and recreation, libraries, senior citizen and youth services, and human resources
- Adhere to national, state, and local requirements for financial management, purchasing, public meetings, public records, and ethical conduct
- Prepare the annual operating budget and capital improvement plan for governing body action
- Ensure fiscal responsibility and modern accounting practices
- Recruit, hire, train, and supervise the local workforce

- Prepare materials for the governing body meeting agenda
- Develop long-range operating plans with guidance from elected officials
- Oversee local economic development, including negotiation of development and revenue deals
- Coordinate information sharing and action among elected officials, employees, and citizens.

The Mayor in a Council-Manager Government

Specific responsibilities of the mayor in a council-manager government include

- Chair governing body meetings, which includes paying attention to parliamentary procedures, and ensure the accomplishment of desired outcomes
- Serve as a primary contact between the management staff and the governing body to keep the community agenda moving
- Encourage good communication with the citizens, the media, other members of the governing body, and the chief administrator
- Represent the local government in many settings in the community, with other local governments, and at the state and national levels
- Facilitate action during meetings, between meetings, and throughout the community
- Help to create, maintain, and strengthen the effectiveness of the local leadership team
- Encourage and support the community during a crisis.

In the mayor-council form of government, the mayor is both the elected political leader and the chief executive, working in partnership with the governing body but not as a member of it. The governing body chair is the leader of the elected team, responsible for ensuring productive meetings and effective group action. Together, the elected mayor and council president/chair carry out the administrative and policy-making roles that are divided between the mayor and the chief administrative officer in the council-manager form.

Emerging Roles

The challenges facing today's communities and the changing expectations of local leaders have led to some new roles. Perhaps the most dynamic aspect of your leadership is your relationship with the people who elected you to lead the community. In a study of how to connect citizens and their government, the National League of Cities Advisory Council identified these roles for local elected officials:

- **Models of civility and cooperation** to set the tone for civil discourse and productive problem solving

- **Messengers** using the "bully pulpit" to encourage citizens, businesses, the media, community organizations, and others to play an active role in community building
- **Shapers of processes** that connect citizens and their government in productive ways
- **Leaders** who bring people together and build trust.



Fast Fact

The amount of time elected officials spend on council-related business varies according to community size, nature of position (i.e., full time or part time), and other employment commitments. According to NLC's survey, elected officials in small cities spend an average of 20 hours per week on council business; in medium cities, 25 hours; and in large cities (more than 200,000 in population), 42 hours.

Relationships: It Takes a Team

Coming together is a beginning. Keeping together is progress. Working together is success.

—Henry Ford

Charters and municipal codes document how a local government is supposed to work by defining roles and responsibilities. The foundation for effective action is another R: relationships.

A successful team is more effective than its individual parts—creating synergy, stronger collective ideas, and a shared sense of accomplishment. One good idea leads to a better idea. Disagreements lead to productive discussion, an understanding of and respect for differences, and a better shared solution.

What makes a group of people a team?

- A shared and explicit vision
- A well-defined and accepted mission
- Clear goals to which everyone is committed
- Energy and enthusiasm
- Commitment to work together
- Professional respect for one another
- A commitment to understanding each other's perspectives and to resolving conflicts

- Ability to communicate comfortably
- Ability to disagree openly and productively
- Effective decision-making procedures
- Distributed participation: everyone engages and handles different responsibilities
- Motivation to get the job done
- High levels of trust, acceptance, and support among members
- Cohesion: a sense of belonging and a desire to stick together.

The more success a group has in carrying out its mission, the more it grows as a team. In sports, winning teams keep winning—not always because they have the most talented players, but because individuals learn to trust each other and play to each other's strengths.

What gets in the way of effective teamwork?

- Lack of commitment
- Misunderstanding or lack of knowledge about group processes and rules
- Destructive competition
- Poor communication
- Poor interpersonal skills
- Personal conflicts
- External pressures and/or new demands that stretch the team's capacity
- Political grandstanding
- Unwillingness to see/consider different perspectives or to compromise
- Representation of only one perspective or one group regardless of the issue.



Fast Fact

Conflict among members of the governing body is the most frequently mentioned source of frustration for local elected officials, cited by 43 percent in NLC's survey. The next most frequently mentioned source of frustration is pressure from interest groups, at 31 percent.

When the team doesn't work well together, there can be consequences:

- Public embarrassment
- Inability to act
- Delays and gridlock
- Long meetings without results
- Lost opportunities for the community

- A stressful and unproductive environment
- Personal conflicts that interfere with productivity
- Turnover among both staff and elected officials.

Trust and cohesion are foundations of successful teamwork but are often the hardest team attributes to achieve. The constant pressures of public service—tight budgets, citizen demands, media inquiries, limited time, tough issues, the next election—strain team relations. But the bottom line is, you were elected as an individual to serve on a group that makes decisions together on behalf of the community you serve. If you want to be on a winning team, help the team win!

Building a Successful Team

Paying attention to how your group works together is an important part of building a high-performance governing body. Ways to pay attention range from informal action reviews after a governing body meeting to a formal team-building process using an outside facilitator. Right after an election when the team changes is the best time to focus on how your group will work together.

You can tell your team-building efforts are successful when you have

- Open and honest discussion and feedback among team members
- Frank conversation about cooperation, expectations, and team problems or challenges

Key Players on the Local Leadership Team

- The ***elected governing body*** meets regularly to make collective decisions, set policies, enact laws, and establish broad directions for the community.
- The ***chief administrative officer*** is the primary staff contact for the elected governing body. The chief administrative officer is hired and evaluated by the governing body, interacts regularly with the governing body and its individual members, brings management expertise to the local government, and provides information and resources for decision making.
- The ***professional staff/department heads*** work directly for the chief administrative officer; support the chief administrative officer and the governing body by providing expertise, information, and resources; and carry out policies passed by the governing body through programs and services delivered by their departments.

How these elected and appointed leaders work together varies from community to community, but they all play vital roles in carrying out the local government's mission, delivering services, and meeting citizen needs.

Team-Building Skills Checklist

After a governing body meeting, assess your teamwork skills by giving yourself a score from 1 (rarely) to 5 (always) on each of the teamwork dimensions:

- ☐ Did I create a relaxed, collegial atmosphere that supported and encouraged collaboration?
- ☐ Did I participate actively in the discussions?
- ☐ Did I help keep the discussion on track?
- ☐ Did I understand and accept the task(s) the team was working on?
- ☐ Did I listen to others?
- ☐ Did I feel comfortable disagreeing with others?
- ☐ Did I feel comfortable when others disagreed with me?
- ☐ Did I seek consensus/help the group move toward a shared conclusion?
- ☐ Did I use my knowledge and skills during the session to help the group get its work done?

- Increased awareness of the impact of individual behavior on team performance.

Informal team-building sessions give the group a chance to look at how it is working and to identify obstacles to effectiveness. Consider these options:

- **Newcomers' orientation.** Shortly after an election, incumbent elected officials, working in partnership with the chief administrator, plan an orientation for the new members. The discussion might include veterans' recollections of their own first few weeks in office. Sample reports, agendas, minutes, and other materials will help newcomers get up to speed.
- **Informal team assessment.** The team-building skills checklist above provides a tool for starting a conversation about how each individual rates his or her own performance as a team member.
- **Work sessions on working together.** Your governing body can spend extra time together beyond official meetings to build team rapport using this handbook as a resource.

Hiring a Facilitator

While the chief administrative officer and mayor can successfully lead team work sessions and orientations for new members, an experienced facilitator is better equipped to lead an intensive team-building process.

The facilitator makes it possible for all members of the team—including the mayor and chief administrative officer—to participate fully in the learning process. A facilitator also brings expertise in managing a group process.

Team-Building Challenges in the Public Sector

Conducting a team-building session in the public sector poses special challenges.

- **Open meeting laws:** All fifty states and the District of Columbia have laws that define boundaries for public meetings. Generally, a public meeting is not the best setting for team building—but violating your state open meeting law is not a reasonable alternative. Most open meeting laws have exceptions that allow private session. Check with your legal counsel to decide on your best course of action.
- **Media interest:** Even if your state open meeting law permits a closed team-building session, a private governing body meeting will draw media attention. To avoid speculation, inform your media about the meeting—who will be there, what you hope to accomplish, and what information will be available after the session.

The Facilitator's Role

The facilitator is a "process person" who guides the group through productive discussions and keeps track of agreements. The facilitator also helps the group focus on the issues that are most important: what's happening in the group right now, how do team members interact, what's interfering with the team's effectiveness, and what actions does the team need to take. The facilitator helps the group solve its problems.

How do we know if we need a facilitator?
A highly motivated group may be able to conduct its own team-building session. But a group that has had major disagreements or political conflicts could benefit from a facilitator's help. If a team-building process is threatening because it implies criticism of the entire group or of specific members, an experienced facilitator who is not a team member can provide impartial direction, ease the tensions, and create an environment for open discussion.

How can we find a good facilitator?
Check with nearby colleges, organizational development consulting firms, national associations, your state municipal league or state county association, and other local governments that have conducted team-building sessions. Hiring a facilitator is like filling an important vacancy in your government. You should review résumés, assess the person's experience with the public sector, and talk with references.

- **Post-session interviews and feedback:** Be sure that your team agrees on what information about the session will be released to the media, and on how individuals will handle follow-up discussions with the media and others who might ask.

Team Building and Politics

Creating a strong team in a political environment is tough. The stress of a campaign and the competition for votes make an already difficult process even more challenging. Ideological differences around major issues like growth, immigration, and taxes can further strain the capacity of individual elected officials to work together as a team.

Some Words about Human Relations

The Six Most Important Words
"I admit I made a mistake"
The Five Most Important Words
"You did a good job"
The Four Most Important Words
"What do you think?"
The Three Most Important Words
"*If you please"*
The Two Most Important Words
"Thank You"
The One Most Important Word
"We"
The Least Most Important Word
"I"

—Author Unknown

Governing bodies that become successful teams rely on

- Shared commitment to making good decisions on behalf of the community
- Willingness to focus on building a team
- Protocols for working together to try to minimize personal conflicts and maximize productive decision making, including consequences for violating the protocols
- Respect for each other as individuals who share a commitment to public service
- Respect for different perspectives as a way to improve decision making
- Knowledge of how to balance strongly held views with the need for compromise to reach a conclusion.

Recap

- State law, legal documents, and form of government provide a basic legal framework for official roles and responsibilities.
- Elected officials are the policy leaders in the community, and the chief administrative officer is the management/administrative leader—but the roles overlap and work best when the distinctions aren't hard and fast.
- It takes a team to lead a government, and it takes hard work to create a successful team.

Habits of Highly Effective Governing Bodies

Clearly define roles and relationships

Think and act strategically, focusing on key policy issues

Operate in a culture of values and ethics

Regularly evaluate policy implementation

Work together as a team

Master small-group decision making

Develop and follow protocols for governing body behavior and governing body–staff relations

Allocate time and energy appropriately

Set clear rules and procedures for meetings

Get regular assessments of citizen concerns and governing body performance

Recognize their position in the intergovernmental system and build productive partnerships

Focus on personal learning and development as leaders

Look to the future

Adapted from Carl H. Neu Jr., 10 Habits of Highly Effective Councils

Recommended Local Reading

- State law governing local authority and responsibilities
- Your local government charter and municipal code

2

Policy Making and Strategic Planning

I get up every morning determined to both change the world and have one hell of a good time. Sometimes this makes planning the day difficult.

—E. B. White

So you're a member of a local leadership team, committed to ensuring that the team works effectively.

And you're also a local policy maker, committed to making good policy decisions as a member of the local leadership team.

What exactly does that mean? What is policy?

You ran for office with ideas about what's important for your community—the issues that matter most, changes you'd like to see, your vision for the community. As part of your transition from citizen to elected official to team member to policy maker, you'll begin to mesh your personal ideas with those of others to define desirable directions for the community.

This chapter examines the process of local policy making, including

- Understanding policy
- Setting goals and strategic priorities
- Linking policies and money through the annual budget
- Evaluating policy effectiveness.

A Vision and a Sense of Mission

As an elected official, you are responsible for making decisions about the scope of services that your government will provide and about how to pay for those services. You are also responsible for establishing policies that affect every dimension of your community—local economic growth, cultural change, the environment, new residents, regional collaboration, long-term financial management, and more. Your decisions are guided by a clearly defined mission.

A mission is the reason that your local government exists, and it is usually defined in terms of the community's vision of its future. And your job as an elected official is to put in place policies, programs, and facilities that will carry out the mission to make your community's vision come true.

Thornton, Colorado (www.cityofthornton.net), started its visioning process with this question: *is there more we should be doing to ensure a quality future for our community*? That led to a yearlong effort to engage citizens through public workshops, three geographic focus subcommittees, and an ongoing steering committee that helped the governing body produce a comprehensive plan and a vision for a city. The vision defines Thornton as a city that strives for *quality and diverse neighborhoods, plentiful quality jobs, great amenities,* and *active and engaged partners.*

Some local governments create both a broad vision statement for the community and a specific mission for the government. Some also develop core value statements that define how the government serves and guides the community. Others use slogans to convey what the community is or expects to be. The specific form your "sense of mission" takes is secondary to ensuring that your governing body operates from a shared foundation that defines an overall direction and your team's commitment to the community. (For more on creating a community vision, see Chapter 6.)

Understanding Policy

Policy is a plan of action agreed to by a group of people with the power to carry it out and enforce it. Policy can be as specific as adopting an ordinance—a local law—requiring dogs to be kept on leashes in public areas, or requiring all residents to recycle specific materials, or requiring developers to build sidewalks in residential neighborhoods. Or it can be a declaration of a broad government commitment, such as providing affordable housing or attracting new businesses to broaden the tax base and create new jobs. Generally, policy making means

Sample Mission Statements

Riverside, California
The City of Riverside is committed to providing high quality municipal services to ensure a safe, inclusive, and livable community.

Georgetown, Texas
To preserve and enhance the quality of life and unique character of Georgetown by preserving the rich heritage and natural resources; promoting well-planned development, cost-effective professional management, and competent, friendly services; and protecting its citizens, the environment, and all other assets.

deciding *what* you are going to do in your community, not *how* you are going to do it.

Your annual budget, capital improvement plan, land use master plan, and housing strategy are all policy statements that define a course for your community.

Good public policy is

- **Beneficial** to the community
- **Necessary** to move the community forward or to respond to a specific emerging need
- **Consistent** with the government's overall mission
- **Easily understood** by the community in general and by those who will be most affected by it
- **Well-informed and rigorous** based on an analysis of policy alternatives and implementation costs and consequences
- **Open to change or improvement** as circumstances change or evaluation suggests a new direction
- **Responsive** to urgent needs, emerging challenges, or needed changes of direction
- **Able to be enacted** on the basis of clear input from the chief administrative officer.[1]

Policy making can be passive as well as active. Deciding not to act (or not deciding), deciding to do something the way you did it last year, or making a special exception to a rule are policy decisions.

Adopted policies are usually summarized—or codified—in the local government code. To understand your government's mission, it is important to become familiar with adopted policies. Begin your service as a policy maker by reviewing the most recent annual budget; the capital improvement plan, the comprehensive, general, or master plan; and the local government code.

Strategic Planning: Setting Goals and Priorities

While all policy that supports your mission is important, it's the big issues that merit most of your time. Action demands, such as fixing potholes in certain neighborhoods, replacing trees in public areas, or adding stop signs, are important but should not be allowed to consume all your time.

Today's local governments generally use strategic plans to set clear policy goals and priorities for action.

1 Adapted from Department of Education and Children Services, Government of South Australia, January 2008.

A strategic planning or goal-setting process

- Moves the organization and the community toward a desired future
- Provides a framework for action to guide the leadership team
- Gets everyone pulling in the same direction by helping the team share different ideas and then agree on which goals will get attention
- Helps you manage your time more effectively by deciding what the governing body will focus on
- Establishes clear guidelines for the chief administrative officer and professional staff
- Provides guidelines and priorities for budgeting, particularly if you're facing financial constraints
- Strengthens your team by giving it experience working together to make tough choices.

A strategic plan defines broad policy goals that span several years. Priorities, objectives, and strategies narrow the timeframe and describe how the organization will achieve the long-term goals. The strategic plan serves as a framework for setting annual priorities, defining action strategies, and allocating resources to carry out the actions needed to reach the goals.

Some plans begin with broad strategic priorities or themes that carry over from year to year with annual targets under each priority. The language may vary but the purpose is the same: to agree on broad directions for the community that will guide governance action during a specified period of time.

Many local leadership teams use retreats to develop strategic plans and review and update policy goals.

Strategic Planning Steps

A strategic planning or goal-setting process follows these general steps.

Step 1: Identify issues and needs. Challenges to be pursued, needs to be met, or problems to be solved are identified by the governing body and chief administrator, and often emerge from citizen surveys or from a broad citizen involvement process.

Step 2: Define goals. Goals define the desired outcome in response to a challenge, need, or problem. Goals often identify a point or outcome to work toward beyond what the governing body can accomplish in one year or even one term of office.

Step 3: Establish action strategies/objectives. Strategies, objectives, targets, or milestones define steps you intend to take within a specified timeframe to move toward your goals. Strategies are usually tied to the annual budget and define measurable achievements so that the team can assess progress.

Talking Strategic Planning

Columbia, South Carolina (www.columbiasc.net), includes these definitions as part of its operational strategic plan:

Vision is a statement of a possible and desirable future state of the organization.

Mission is the reason for an organization's existence, or what it does and what the organization will do to make the vision a reality.

Values are the basic beliefs that reflect what an organization is, what it stands for, and how it provides service.

Strategic Issues are concerns that must be addressed in order to achieve the vision, fulfill the mission, and be true to the values. Strategic issues may arise from gaps between expectations and performance and may be identified from an analysis of the organization's strengthens, weaknesses, opportunities, and threats.

Goals are statements of desired outcomes that explain what the organization is trying to achieve.

Strategies describe how the organization will accomplish the goals.

Measures provide quantitative or qualitative indications of the extent to which goals are being met.

Step 4: Choose priorities. Priorities define what will be done first based on both need and available resources. Money is often the key factor in determining priorities. But to ensure that you pay attention to the most important challenges, needs, or problems—not just to the affordable ones—you may want to leave the money issue off the table in initial discussions of priorities.

Step 5: Provide resources for action. Translating goals and strategies into programs is generally a staff role, but the governing body monitors progress on the priorities it has set. The annual budget is the operating framework for accomplishing the work that the leadership team has agreed to. The next section of this handbook focuses on linking policy goals and money.

Step 6: Evaluate progress. Unsolicited feedback gives the governing body one way to assess progress toward its goals; it is also an important indicator of how well government priorities are connecting with citizen's needs and interests. Regular and rigorous measures of performance are important as well. Performance measures can include surveys to assess how residents view services and overall government performance.

Little Rock, Arkansas (www.littlerock.org), used a planning retreat to identify goals and set priorities. Governing body members listed their interest areas and then rated the interests as "must do," "should do," and "nice to do." The group agreed that anything in the "nice to do" category would be delayed to focus limited resources on the most important priorities. Four "must do" policy priorities emerged in these broad categories: ***public safety, economic development, basic city services,*** and ***infrastructure.*** One "should do" priority addressed ***quality of life,*** defined as recreational, creative, and educational experiences. After the initial retreat, the governing body adopted five policy statements that were crafted by the staff from the broad categories. During the annual budget process each year, the governing body reviews the five policy statements and develops budget priorities around updated information.

Linking Policies and Money: The Annual Budget

The municipal budget is your most important annual policy statement. It defines how the local government team will implement its priorities for the next fiscal year, and where the money will come from to carry out that work plan. The late Henry Maier, former mayor of Milwaukee, once called budgeting "the world series of municipal government," because it is the government's most important annual action.

The annual budget is much more than a one-year spending plan. It is

- A statement of priorities for the community
- A management blueprint for providing services
- The document that translates policies into action
- A tool for protecting the government's long-term financial health
- A communication document for the public.

The process of developing and monitoring the annual budget requires the cooperation of citizens, the governing body, the chief administrator, and department heads.

Developing a municipal budget is challenging for many reasons:

- The population of your community has diverse needs and preferences, and not everyone has the same ability to pay for services.
- State and federal regulations mandate some activities and affect others.
- Many local governments services are difficult to plan and evaluate.
- Budget decisions are made in a political environment with pressure to address short-term problems and respond to special needs—sometimes at the expense of long-term planning.

A facilitator helped the **Village of Indian Hill, Ohio** (www.ci.indian-hill.oh.us), agree on goals and set priorities. The facilitator interviewed elected officials to identify major program categories and goals, and then compiled a matrix, which each official used to rate each goal's priority as high, medium, or low. The officials then held a retreat to identify and focus on shared high priorities. In addition to the city manager and current mayor and city council, a former mayor and council member were included in the retreat to provide a broader perspective.

- Engaging citizens in the budget process is important and highly recommended, but it is also enormously challenging.
- Local elected officials have different ideas about priorities for spending and raising money.
- Citizens' desire for public services generally exceeds their willingness to pay taxes or fees.
- There's never enough money.

Adding to the challenge of municipal budgeting are local antitax movements, state actions that limit local revenue-raising authority, national economic challenges that affect local revenue, and reductions in federal and state financial support.

To succeed, it's important to be **well-prepared, well-informed,** and **willing to work as a team** for the good of your community.

The following sections provide a snapshot of the local budget process. They focus on what you, as an elected official, need to know to make good decisions

Albany, Oregon (www.cityofalbany.net), adopted a strategic plan to carry out its mission and vision. The strategic plan, which is updated annually, is built around these four themes:

- Great neighborhoods
- A safe city
- A healthy economy
- An effective government.

For each theme, the plan identifies broad goals, measurable objectives, and strategies and actions to meet the benchmarks. The themes and goals generally remain constant over time, while the objectives and strategies and actions are reviewed and refined.

about your community's annual financial plan. Your chief administrative officer is the best resource for providing details on your community's approach to budgeting. Reviewing recent operating budgets is required homework if you're new to elected office or facing your first budget process.

The Operating Budget

The operating budget lays out your government's financial plan for the upcoming fiscal year. Generally, the chief administrative officer will prepare a budget for the governing body to review, revise, and adopt. Budget preparation and review are based on guidelines and priorities established by the leadership team. In a strong mayor form of government, the mayor prepares the budget for governing body review.

Typical components of a local budget include

- A message from the chief executive/chief administrative officer highlighting major program and service priorities, changes from previous years, and key challenges for the current year, and summarizing revenue and expenditures
- A summary of program priorities, and a breakdown of how money is allocated to carry out those priorities and produce specific outcomes
- Details on revenue—where the money will come from, how sources of revenue have changed, and issues for further study
- Details on expenditures organized by program and department, including operating expenses for the specific fiscal year and capital expenses that can be spread over multiple years for public improvements and acquisitions
- Quantitative performance measures that show results that will be achieved by spending the money as proposed
- Comparative data showing how spending has changed over several years, including, in some cases, projections for the following year.

The Capital Budget

The capital budget is the other major part of your local government budget. Capital items include the construction, acquisition, or improvement of public facilities such as libraries, sewers, jails, bridges, and roads. Capital projects usually span multiple years and are expensive. As a result, most local governments develop separate budgets and plans for capital needs, and then include the one-year annual costs for the capital budget in the operating budget.

Key components of the capital budget are

- A comprehensive capital improvement plan that lists all the capital project activities that the government is undertaking within the coming fiscal year
- Proposed funding for capital projects, including any state or federal funding and whether the project will be funded by local revenues—usually called pay-as-you-go—or will require borrowing that will produce long-term debt

- Annual operating costs for capital projects such as staffing, utilities, and equipment. Because most capital projects create ongoing increases in operating expenses, the two budgets must be connected.

Analyzing and Interpreting the Budget: Questions to Ask

The governing body can assess the proposed budget by asking the following questions:

- **Does the budget reflect local priorities?** Review the budget against your leadership team's policy goals and priorities to make sure that it allocates money appropriately. If something is missing, ask why.
- **Is the budget balanced, and was it balanced in prior years?** Under state law, local governments must adopt "balanced" budgets. Your job is to make sure the financial assumptions for revenues and expenditures that produce the balanced budget proposal are sound.
- **How is your revenue structure changing?** Examine revenue trends to assess how reliable the revenue projections are, and what any changes in your revenue structure will mean for this budget and the community's longer-term financial health.
- **How is the program expenditure plan changing?** In looking at expenditure requests, which are usually organized by programs, departments, or cost centers, focus on areas where significant changes are proposed and ask why.
- **How do proposed capital projects support local priorities, and how does long-term spending affect long-term financial health?** Make sure that proposed capital spending projects are consistent with agreed-upon priorities, and take some time to review and discuss funding for capital projects. Funding may come from multiple sources, such as bond issues (which must be approved in a referendum), grants, tax increment financing revenue, and private contributions.
- **Does the budget include reserves for emergencies?** Is the budget just balanced or does it include money for emergencies? If your local government is not appropriating money to a reserve account, you may be living on the edge. Reserve funds help municipal governments meet future fiscal challenges. In addition, bond underwriters look at reserves as an indicator of fiscal responsibility, so a healthy reserve can increase credit ratings and decrease costs of local debt.



Fast Fact

The NLC report *City Fiscal Conditions in 2007* found that cities' ending balances or "reserves" were continuing to grow despite economic and fiscal challenges. In 2006, ending balances as a percentage of general fund expenditures averaged nearly 26 percent, which was an all-time high for the NLC survey.

Participatory Budgeting

The residents of your community are the primary customers for the services you fund in your annual budget. Engaging citizens in shaping the budget increases their trust and strengthens their connection with government. You can connect citizens to your budget development process in various ways:

- **Hold public hearings on the proposed budget.** Governing bodies generally convene hearings after they've analyzed and revised the chief executive's proposed budget, but well before they adopt it. You want to ensure that the budget the public is commenting on reflects the governing body's input, but you also want to allow time for further revisions.
- **Engage citizen advisory groups and neighborhood associations.** Organized groups that are familiar with government operations are great resources for soliciting input on your spending plan. Some citizen groups analyze the proposed budget in detail, focusing on areas of interest or expertise.
- **Regularly publicize information about your budgeting process and schedule.** Your government Web site can keep residents up-to-date on the budget process, and newsletters and other communication tools can raise its visibility. Media coverage of the budget can also be productive, so it is in your best interests to keep the media informed about the budget process.

Participatory budgeting goes beyond the traditional budget hearing to get citizen input. The success of participatory budget depends on

- **Early and open involvement:** To ensure meaningful input, engage residents early, provide broad access to budget information, and sustain the connections from start to finish. Make sure your budget calendar allows time for seeking and incorporating citizen input so that the engagement is genuine.
- **In-depth connections:** Establish budget advisory groups made up of knowledgeable citizens who understand community needs and can commit significant time to the review process. Single-interest or highly political picks can derail or discredit the entire process. By seeking participants who have a broad perspective and are willing to represent the entire community rather than a special interest, you are more likely to obtain high-quality input.
- **Accessible tools:** Understandable and easily accessible budget documents help citizens make useful contributions. An orientation session for volunteer committee members before they dive into budget review is helpful. Technology also enables you to provide up-to-the-minute information that can help encourage participation in your budget process.
- **Willingness to accept input:** Whether you're seeking input from traditional strategies such as surveys and public hearings, or from more in-depth connections such as budget advisory groups, it is important to weigh the input seriously and demonstrate that it has been considered.

Portland, Oregon (www.portlandonline.com), has five community budget advisers who work with elected officials and city staff throughout the process to ensure that the budget reflects community interests. The community advisers serve on budget teams that review sections of the budget in depth and make recommendations for revisions. In addition, the city has a community budget Web site to keep residents up-to-date on the budget process, invite them to upcoming meetings and forums, and let them see online the proposed budget and suggested amendments throughout the process.

Evaluating the Effectiveness of Your Policies

Three valuable tools for evaluating policy effectiveness are

- Regular data collection from citizens
- Data analysis and comparison with established performance indicators
- Public reporting.

Data Collection

The first and last measure of good government is citizen satisfaction. Regular citizen surveys will help you assess policy effectiveness. Local governments can use regular written surveys as well as periodic telephone surveys to get data for assessing policy effectiveness, measuring results on agreed-upon priorities, and setting new program and spending priorities.

The National Citizen Survey™, developed by ICMA and the National Research Center, Inc., is a low-cost, tested, flexible, and efficient tool for surveying citizens to obtain their opinions on program planning, budgeting, goal setting,

Little Rock, Arkansas (www.littlerock.org), conducted a telephone survey to measure citizens' use of services and opinions about those services, as well as citizens' perceptions of the problems facing the city. The survey included questions about street conditions, garbage collection, sidewalks, street lighting, and other basic services. The Arkansas Institute of Government Survey Research conducted the survey and analyzed the results for the city.

Austin, Texas (www.ci.austin.tx.us), uses a comprehensive citizen survey that measures accomplishments on four major priorities: public safety; youth, family, and neighborhood vitality; sustainable community; and affordability. City departments develop the questions to measure the degree of importance that citizens assign to the priority areas, and to determine how well services in these priority areas are being delivered.

Bloomington, Minnesota (www.ci.bloomington.mn.us), annually publishes its *Corporate Report to the Community* focusing on the taxpayers' investment in the community and showing how well the government is performing. With charts and graphs, it provides detailed data on financial performance.

Coral Springs, Florida (www.coralsprings.org), incorporates performance measures into its state-of-the-city report. The report gives citizens an easy-to-read summary of strategic priorities, accomplishments, surveys results, and techniques for collecting the data that will be used to develop new polices and programs.

Sterling Heights, Michigan (www.ci.sterling-heights.mi.us), developed a community calendar that provides information on sixty-five key performance measures. The calendar format provides performance highlights throughout the year, and compares results with those of other jurisdictions.

and performance measurement. Visit www.icma.org for more information about The National Citizen Survey™.

While a formal survey may be conducted annually as part of your policy development and budgeting cycles, ongoing feedback tools, such as complaint tracking systems, focus groups on new programs, and community meetings, are also helpful.

Data Analysis and Benchmarking

The chief administrative officer and professional staff analyze data collected in annual surveys and other feedback systems, and report the results to the governing body. Benchmarking—comparing trends over time, or comparing locally collected data with indicators from similar cities—helps the leadership team identify emerging problems and find ways to solve them. The ICMA Center for Performance Measurement provides a variety of tools to support collection, analysis, and comparison of performance data.

Public Feedback

It is important to keep citizens in the loop on policy and program effectiveness. Written annual reports, state-of-the-city reports, and access to performance data let citizens know that their feedback is taken seriously and keep them informed about government effectiveness in carrying out priorities.

Recap

- A vision—a broad statement about what your community is or expects to be—defines your government's mission and provides a foundation for your team's policy work.
- Policy making means deciding what actions your government is going to take to carry out its mission.
- Setting goals and strategic priorities to guide policy decisions will keep you focused on the big picture and help the governing body manage its time more successfully.
- The annual budget is your most important annual policy statement.
- Involving citizens in the budget process through work sessions, public hearings, and citizen budget committees will increase trust, provide useful input, and produce a better budget.
- Evaluating policy effectiveness using both qualitative and quantitative measures will enhance future policy making.

Recommended Local Reading

- Current strategic plan
- Existing vision and mission statements
- Local government code
- Current priorities and strategies
- Most recent annual budget and capital improvement plan
- The comprehensive or master plan
- Local financial statements

3

Making Meetings Work

Democracy must mean more than two wolves and a sheep voting on what to have for lunch.

—Benjamin Franklin

Much of the business of governing is carried out in meetings, including regular governing body meetings, work sessions, committee meetings, and public hearings.

Your local charter provides the framework for regular governing body meetings, including requirements for public announcements, voting quorums, minutes, and state laws that must be observed, such as open meeting laws and freedom of information laws.



Fast Fact

The first open records law was passed in Wisconsin shortly after Wisconsin became a state in 1848. The first open meeting law was passed in Florida in 1967. All states and the District of Columbia now have both open records laws that govern access to public documents and open meeting laws that define public meeting requirements and sanctions.

The rapid rise of open meeting laws in the 1970s—led by Florida's "sunshine law"—initially caused anxiety, but open government has become a positive way of life for today's public officials. Knowing what's in your state open meeting law is an important part of your information tool kit.

Beyond the legal requirements, factors contributing to successful meetings include

- Rules of procedure and protocols
- A well-planned agenda
- Committees and work sessions.

Open E-mail

When members of a leadership team communicate by e-mail, they must observe open records and open meeting laws. A California legal opinion concluded that members of a governing body who e-mail each other to develop a collective agreement on a scheduled action are violating the state open meeting law. E-mails sent by public officials are generally considered public communications and are covered under freedom of information laws. Many public officials include a statement at the bottom of their e-mails confirming that their e-mail communication is part of the public record.

Rules of Procedure and Protocols

Rules of procedure help you conduct public business in an orderly way. Protocols provide guidelines for governing body behavior and interaction in public settings. Combined, well-written rules of procedure and clear protocols that everyone agrees to follow provide a framework for successful governing body meetings.

One of the first acts that some new councils take after an election is to adopt existing rules and protocols to reestablish standards for working together. One of your first acts when you join the leadership team as a new member of the governing body should be to review all rules and protocols carefully and ask questions so that you become comfortable with the governing body's way of carrying out its business.

Rules of Procedure

Topics covered in governing body rules include

- The regular schedule for meetings, and provisions for calling special meetings
- Order of business, who prepares the agenda, and the deadline for delivery of materials to governing body members
- Procedures for modifying the published agenda for new or emergency items or for making any other post-publication changes
- Debate and voting procedures, such as how to resolve tie votes, when to use roll call votes, and how to record silent votes and abstentions
- Procedures for public participation in governing body meetings, including when public input is accepted, time limits for speaking, when and how to register to speak, whether advance notice is required, and opportunities to submit written statements
- Exceptions to the rules
- Parliamentary procedures that will be followed, and procedures for resolving any challenges to rulings by the chair.

Guiding Principles for Streamlined Parliamentary Rules

1. ***Rules should establish order.*** The first purpose of parliamentary procedure is to establish a framework for orderly meetings.
2. ***Rules should be clear.*** Simple rules lead to wider understanding and participation.
3. ***Rules should be user-friendly.*** The rules must be simple enough that citizens feel they have been able to participate in the process.
4. ***Rules should enforce the will of the majority while protecting the rights of the minority.*** The ultimate purpose of the rules is to encourage discussion and facilitate decision making. The rules must enable the majority to express itself and fashion a result, while permitting the minority to express itself (but not dominate) and fully participate in the process.

Adapted from *Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century*

Many governing bodies rely on *Robert's Rules of Order* for parliamentary procedure. But *Robert's Rules* is complicated, detailed, and intended primarily for large legislative bodies. It can be frustrating to use. A governing body that gets tangled in parliamentary process doesn't make good decisions, which can undermine public confidence in government.

Adopting your own simpler parliamentary rules is fine—as long as those rules are clear, used consistently, and contribute to productive debate and action. It is useful to have streamlined parliamentary procedures reviewed by your local government attorney.

Sample Governing Body Code of Conduct

- Seek to understand one another's perspective.
- Seek diversity of ideas.
- Honor one another in public, and protect each other in their absence.
- Be tough on issues, soft on people.
- Focus on the issues, not on personalities.
- Seek honesty and integrity in all deliberations and interactions.
- Governing body direction to staff should be by consensus rather than by individual action.
- Once a decision is made, move on, bury disagreements, and expect staff to follow through as defined.

Protocols

Protocols focus on civility, courtesy, and decorum. Some governing bodies develop informal protocols to guide how they'll work together as a team and what constitutes acceptable behavior in public settings. Protocols may also cover the governing body's expectations for the behavior of local government staff and the public at meetings.

Formal protocols define both acceptable behavior and consequences for violations. For example, a governing body member who regularly violates the rules may be reprimanded or formally censured, or a citizen whose behavior is unacceptable may be barred from further testimony.

While it is difficult to legislate behavior, written, adopted, published, and accepted protocols provide a framework for positive and productive meetings.

Sometimes, the biggest challenge for the mayor or governing body chair is keeping discussion focused on the issue rather than on the person. That's why

Sunnyvale, California (www.sunnyvale.ca.gov), developed this checklist as part of its *Code of Conduct for Elected Officials* to help individual council members assess their behavior at public meetings.

- ☐ Will my decision/statement/action violate the trust, rights, or goodwill of others?
- ☐ If I have to justify my conduct in public tomorrow, will I do so with pride or shame?
- ☐ How would my conduct be evaluated by people whose integrity and character I respect?
- ☐ Even if my conduct is not illegal or unethical, is it done at someone else's painful expense?
- ☐ Is my conduct fair? Just? Morally right?
- ☐ If I were on the receiving end of my conduct, would I approve and agree, or would I take offense?
- ☐ Does my conduct give others reason to trust or distrust me?
- ☐ Am I willing to take an ethical stand when it is called for?
- ☐ Can I take legitimate pride in the way I conduct myself and the example I set?
- ☐ Do I listen and understand the views of others?
- ☐ Do I question and confront points of view in a constructive manner?
- ☐ Do I work to resolve differences and come to mutual agreement?
- ☐ Do I support others and show respect for their ideas?
- ☐ Will my conduct cause public embarrassment to someone else?

Palo Alto, California (www.cityofpaloalto.org), provides guidelines for council conduct with one another, with staff, and with other boards and commissions; staff conduct with the city council; and other procedural issues in its adopted *Council Protocols.* Specific protocols related to public meetings include the following:

- Use formal titles.
- Practice civility and decorum in discussions and debate.
- Honor the role of the presiding officer in maintaining order and equity.
- Demonstrate effective problem-solving approaches.
- Be respectful of other people's time.

a rule against personal attacks that applies to both the governing body and the public is valuable. Personal attacks among governing body members or from a community activist, protestor, or gadfly interfere with decision making and, over the long run, discourage others from participating productively.

Members of the governing body set the standard for civility and decorum at the meeting by modeling expected behavior. You can't challenge or reprimand a disruptive citizen if disruption and personal attacks are common among governing body members. Written protocols set the framework for behavior. Good judgment and sensitivity to your public role make the difference.

A Well-Planned Agenda

If I had eight hours to chop down a tree,
I'd spend six sharpening my axe.

—Abraham Lincoln

Generally the chief administrative officer prepares the governing body agenda, working closely with the mayor/council chairman. The agenda usually balances routine items that a governing body must act on with issues related to the governing body's priorities. The more your priorities drive your agenda, the more effective your meetings will be.

To ensure that you are using your time most effectively, it may be useful for the chief administrative officer and the governing body to agree on criteria for organizing the agenda. Criteria to consider include

- **Policy impact/connection to priorities:** Issues that have significant policy implications, are directly related to your established priorities, and may have

a long-term impact on your community should get the most time on your agenda—and usually early in the meeting.

- **Citizen interest:** Particular issues of concern or interest to constituents should be accommodated on the agenda if possible.
- **Relevance to other issues:** Items that are related to or contingent on one another should be listed consecutively or under one heading.
- **Immediacy:** A deadline or crisis should be considered when arranging agenda items. Usually a well-planned approach to public business will cut down on the frequency of crises, but emergencies happen, and your agenda should take that into account.

Chief administrative officers recognize the importance of developing agendas that will support the governing body in carrying out the public's business. A carefully structured agenda and clear, complete, and concise backup materials create an environment for effective decision making.

While governing body agendas vary significantly from community to community, most include the same general information for all items: (1) the issue to be covered; (2) a brief background statement, including a staff recommendation; and (3) the action expected by the governing body. Practical tools such as **consent agendas,** which group routine issues under one action, and **fact sheets,** which summarize the scope of agenda items, can be helpful in managing time and information at a governing body meeting.

Successful meetings start with carefully planned agendas. The chief administrative officer and department staff support governing body decision making by planning agendas and providing both background reports and recommendations for action.

Committees and Work Sessions

Committees and full-group work sessions give elected officials time to explore complex issues in depth between regular meetings where decisions are made.



Fast Fact

More than 80 percent of local governing bodies use committees to examine policy issues, according to NLC's survey, compared with only 61 percent in 1979. Only 70 percent of smaller communities use committees, compared with 91 percent of larger cities (200,000 population or more).

Governing body committees are smaller groups that prepare issues for action by the full body. Ongoing or standing committees are often organized around major government functions—for example, public safety, community and eco-

nomic development, financial management, intergovernmental relations, land use and planning, transportation, energy, and the environment. Ad hoc committees are organized around urgent priorities or emerging challenges.

Governing body work sessions allow the entire governing body to study issues in more depth before making a decision.

The advantage of committees and work sessions is a more informal environment. Members can ask clarifying questions, discuss issues at length with expert staff, seek additional information, and prepare for formal decision making. Professional staff with relevant expertise are assigned to work closely with members in committees and work sessions.

Three caveats about committees and work sessions are important to remember:

1. Decisions are not made in committee meetings or work sessions.
2. Committee meetings don't preclude or eliminate public debate at formal meetings.
3. Most open meeting laws apply to committee meetings and governing body work sessions, which means that the public is invited.

Recap

- Policy making happens in meetings, so working together to make sure meetings enable good decision making is an essential part of your job.
- Open meeting laws guide the process of public decision making.
- Well-written rules of procedure and clear protocols that everyone agrees to follow provide a framework for successful governing body meetings.
- Successful meetings start with carefully planned agendas that help participants address the most important issues in a timely and productive way.

Recommended Local Reading

- State open meeting and freedom of information laws
- Adopted rules of procedure
- Recent governing body agendas and minutes
- *Roberts Rules of Order* or local parliamentary procedures

4

Communicating with the Public

You can have brilliant ideas, but if you can't get them across, your ideas won't get anywhere.

—Lee Iacocca

You were elected by the public to serve the public. Communication encourages informed participation, builds community pride and satisfaction, and improves service. Good communication builds strong connections, and strong connections build a stronger community. In short, communication is a basic government obligation.

The following sections focus on

- Getting your message out
- Listening to the public
- Communicating in times of crisis.

Getting Your Message Out

A regular, consistent, and proactive communication strategy is the best way to connect citizens and their government. The more proactive you are, the less likely you will be to face inaccurate information that needs correcting or disconnected residents who feel out of the loop. Today's technology resources, supplemented by traditional communication vehicles, make it much easier to get your story out.

> *City Council strives to ensure that Danville citizens have complete confidence in their city government. The Council commits itself to providing clear direction, good planning, and stewardship. It works with city employees in a partnership to ensure that clear direction is coupled with high productivity and efficiency. City Council seeks the trust and confidence of its citizens by sharing successes, inviting participation and feedback, and reporting on performance.*
>
> From *Our Leadership Role,* Danville, Virginia (www.danville-va.gov)

Some widely used and successful tools for getting information out to citizens are

- A local government Web site and other forms of Internet communications
- Public access television
- Community newsletters and billing inserts
- Community or neighborhood meetings
- News releases.

In recent years, the Web has become the "must do" outreach for every community. However, not all residents have access to a computer or are comfortable using the Web to get information. Libraries and recreation centers can provide Internet-ready computers and friendly help to ensure that all residents have equal access to important information.

Equally important is redundancy: the local government should use a variety of methods to send the same message or information out to the public.

Communications Strategic Plan

A communications strategic plan takes a broad look at overall government communication tools and strategies. It can be a component of an overall strategic plan or a separate resource developed in close partnership with the staff who are responsible for carrying it out. Elements include

- Written communications to citizens
- Regular neighborhood interaction

Georgetown, Texas (www.georgetown.org), has a comprehensive media use policy that summarizes the purpose of and appropriate uses for all major communication tools, including city Web sites, a cable access channel, the *City Reporter* newsletter, and utility bill inserts. Identified uses for media tools are to inform Georgetown residents about city-sponsored events, news, programs, and services; city council discussions and decisions; board and commission actions; neighborhood association meetings; health and public safety issues; recreation programs and events; economic development initiatives and issues; and attractions, festivals, and performances.

Lancaster, California (www.cityoflancasterca.org), developed a communications strategic plan after a resident opinion survey showed that residents did not know what was going on in city government. For each communication vehicle, the plan identifies the purpose and goals, the targets for improvement, the timetable for action, and lead staff.

Award-Winning Web sites

The Center for Digital Government, a national research and advocacy institute on information technology policies and best practices in state and local government, annually recognizes city and county Web sites for innovation and user friendliness. For some new ideas, visit these ten award-winning Web sites:

Riverside, California (www.riversideca.gov)

Fort Collins, Colorado (www.fcgov.com)

Tampa, Florida (www.tampgov.net)

Columbia County, Georgia (www.columbiacountyga.gov)

Fulton County, Georgia (www.co.fulton.ga.us)

Louisville, Kentucky (www.louisvilleky.gov)

Oakland County, Michigan (www.oakgov.com)

Las Vegas, Nevada (www.lasvegasnevada.gov)

Monroe County, New York (www.monroecounty.gov)

Fairfax County, Virginia (www.fairfaxcounty.gov)

- Emergency communications
- Web site and Internet communications
- Public access television programming
- Customer service communications
- Media relations
- Marketing plans for economic development
- The look and feel of government communications—the local "brand"
- Staffing and resources to carry out the plan.

The ease of communication today and the variety of available tools make an overall strategy valuable. A communications strategic plan will help ensure thoughtful, complementary, and reliable communications.

Web site

A local government Web site is today's most important tool for providing up-to-date information and connecting citizens to services. A Web site provides easy access to a range of important resources—for example, the annual operating budget and capital improvement plan; goals and priorities; meeting schedules, agendas, and minutes; and frequently asked questions about the government.

Your Web site can also build strong community connections through **online services.** Citizens in many communities pay water bills and parking tickets, apply for permits, request services, or register for local recreational programs—all online.

Local government staff is responsible for developing and maintaining the Web site with advice and engagement from members of the governing body.

Internet Communications

The Internet provides a reliable way to get information out regularly. Some Internet tools are extensions of the local government Web site. Others may be used by individual elected officials as ways to communicate regularly with constituents. And still others create opportunities for citizens to connect with each other about community and neighborhood issues.

Understanding the range of resources is a good starting point. You should expect your local government staff to find the right Internet tools to carry out your communications strategy.



Fast Fact

According to the Pew Internet and American Life Project, 72 percent of Americans aged 12 and older use the Internet. More than 90 percent of Internet users rely on e-mail, and 73 percent get news online. While the extent of use still decreases with age (87 percent of people aged 12–17 are regular Internet users vs. 21 percent of people over age 70), use of online tools for communication, information, and services is growing in all age groups.

Here are some examples of Internet communication tools.

- **E-newsletters** provide regular updates on specific topics without requiring citizens to go to the local government Web site—except to subscribe. An e-newsletter is usually written around a specific recurring topic or issue and sent only to citizens who register to receive it. Or an e-newsletter can supplement a regularly mailed community newsletter and be distributed to a broad citizen list.
- **Blast e-mails** are like e-newsletters but more spontaneous. A broad community e-mail list is used to get information out quickly to a large audience.

Lenexa, Kansas (www.ci.lenexa.ks.us/subscriptions/e-newsletters.html), offers thirteen e-newsletter options, such as *Neighborhood E-Watch, Business Town Talk, Planning Commission Agenda, Senior Programs, Special Events,* and *Clean Streams and Environment,* to help citizens get updates on favorite topics.

Georgetown, Texas (www.georgetown.org), provides RSS feeds from its Web site to connect citizens with regular sources of community news about, for example, tourism, the local school district, pets for adoption, library and recreation information, and the local university. The RSS section of the Georgetown Web site provides information about how to use an RSS feed and a link to a resource to set up an RSS reader.

- **E-mail lists** are discussion groups that allow two-way information exchange among registered participants. When an e-mail is addressed to the list, it goes to everyone on the list. Usually such lists focus on specific topics, and participants choose to subscribe so that they can share ideas with others with similar interests. **Community e-mail lists** provide online information exchange within neighborhoods around a range of issues—from where to take your dog for grooming to concerns about neighborhood traffic. To keep connected to your constituents and their concerns, it's a good idea to join community e-mail lists.
- **RSS ("really simple syndication")** provides a way to distribute community news broadly from multiple Web sites to anyone who registers on one site. Like e-newsletters, RSS provides automatic access to information so that the reader doesn't have to check the Web site regularly to get the news.
- A **blog ("Web log")** is an online running commentary on issues and events. "Owned" and written by one person, it may allow two-way communication. The advantage of a blog is that it is informal, somewhat unstructured, and spontaneous. The challenge is maintaining it. If you decide to start a blog, you need to keep it fresh and up-to-date.

The Internet is a great resource for communicating regularly with citizens and providing quick, easily accessible information. However, there are some cautions to keep in mind. All e-mail communications, whether on a personal e-mail

Santa Paula, California (www.ci.santa-paula.ca.us), has a city blog maintained by the city manager at the request of the city council. The blog includes a ***suggestion box*** where residents can offer ways to run the city better, and a section for posting questions about city government. A ***blog comment policy*** defines the parameters for posting citizen comments to "ensure civil discussion while encouraging diverse perspectives." It prohibits personal attacks, profanity or racial slurs, support of or opposition to an individual official, campaigning, and comments unrelated to the initial blog issue.

account or through a blog or e-mail list, are considered public information. So it is important to approach these tools with the same thoughtful reflection that you use in a public meeting.

Comments and complaints posted on a blog or e-mail list sometimes prompt—or even seem to demand—an instant reaction. But it is usually not a good idea to respond instantly. Stop, think it through, and weigh your options and your words before responding.

Government Access Television

The 1984 Cable Franchise Policy and Communications Act requires all cable television companies to support public, educational, and governmental (PEG) programming. Government access television is a local government resource for a range of uses, such as broadcasting public meetings, providing educational programming, and making emergency announcements.

Technology advances make it possible to broadcast governing body meetings both on your public access channel and through your Web site. While viewership of public access television channels varies, your government channel provides a valuable resource to bring the governing body into living rooms and to provide in-depth information about specific programs and services.

Community Newsletters and Billing Inserts

A newsletter published regularly and distributed in print format through bulk mailing, as well as in electronic format by e-mail blast and on the local government Web site, is a powerful tool for citizen outreach. Whether the newsletter is produced bi-weekly, monthly, or quarterly, it gets information and activities in front of residents, and it can direct people to your Web site.

Bee Cave, Texas (www.beecavetexas.gov), publishes a periodic newsletter called *Bee Cave Buzz*. The *Buzz* includes a message from the mayor, highlights of the issues on the council's work agenda, a financial update, news from inside city hall and around the community, and a calendar of upcoming events. It is mailed to city residents and posted on the city Web site. The newsletter encourages residents to visit the Web site regularly for up-to-date news and information about city services.

Rockville Reports is published monthly by the city of **Rockville, Maryland** (www.rockvillemd.gov), and mailed to all city residents. The newspaper-style newsletter is also posted and archived on the city Web site. It includes news about city activities and governing body decisions, in addition to schedules for events during the month and programming on the government access television channel.

Elected officials in **Lakewood, Colorado** (www.lakewood.org), regularly schedule "morning chats" throughout the community to connect with their constituents. The meetings, which are held in libraries, neighborhood restaurants, and recreation centers, usually on Saturday mornings, offer opportunities for citizens to meet and greet Lakewood council members and discuss neighborhood concerns and citywide issues.

Flyers with important community information inserted with property tax or utility bills can be useful since you know residents open their bills. Time-sensitive information, such as fall leaf collection schedules or winter snow removal plans, work particularly well as billing inserts. A flyer should be very brief and should include your Web site address and a telephone number for more information.

Community Meetings

Technology will never replace face-to-face contact. When you as an elected official reach out to residents on a regular basis—not just when you're seeking their input on a new idea or trying to gain their support for a specific solution—you strengthen their connection with their government. Holding meetings in neighborhoods rather than always convening in city hall also builds stronger bonds.

News Releases

Newspapers, radio, and local television stations are a major source of information for many people. Reporters and editors will generally decide what is "news" in your community, but you can shape that coverage by distributing news releases highlighting important programs, services, and results. Your professional staff will write the news release while you provide quotes and are available for follow-up interviews to strengthen your message.

Decatur, Georgia (www.decaturga.com), offers a five-session course annually to educate up to forty members of the community about how the city works, who is responsible for what, and how citizens can make a difference. Two-hour classes are held once a week in different municipal buildings; in addition, there are special tours such as a recent Smart Growth Walking Tour. Goals of the program are to increase the number of informed and involved citizens and to make local government more accessible to the community. As one recent graduate said, *"It was awesome. It makes it a lot easier to write that tax check."*

Listening to the Public

The day soldiers stop bringing you their problems is the day you have stopped leading them.

—Gen. Colin Powell

Accessible, easy-to-use tools for getting information *in* from your constituents are an equally important part of your communications tool kit. Opportunities for both **spontaneous interactions** based on the citizen's agenda and **structured, scheduled input** built around your agenda encourage participation and feedback.

Spontaneous Interaction

Web sites, 311 nonemergency telephone and e-mail lines, customer service complaint and resolution systems, and personal connections are typical methods for spontaneous interactions. Your input systems will be most useful if they are visible and easy to use, and if members of the leadership team are available and responsive.

Online request systems let citizens ask questions, report problems, and monitor the status of their requests. A comprehensive communications management system helps the government manage and track requests for assistance and

Ask Arvada in **Arvada, Colorado** (www.arvada.org), and *Minnetonka Mike* in **Minnetonka, Minnesota** (www.eminnetonka.com), are comprehensive online communication management systems. Citizens in these cities can access city hall 24/7 to get information, request service, and report local problems. *Minnetonka Mike* invites citizens to "let us know how we can better serve you, help us discover areas for improvement, and tell us what you like about the city and its services." *Ask Arvada* invites general questions around government issues and services, and has three special "ask" categories: *Ask the Mayor, Ask the City Council,* and *Ask the Traffic Guy.*

Columbus, Georgia (www.columbusga.gov), has a Citizens Service Center on its Web site that summarizes options for reporting local problems and requesting service by phone, by e-mail, or online. It includes a list of concerns that residents might notice around the community—for instance, a stop sign on the ground, debris in the roadway, tree limbs hanging in the street—and urges citizens to use the 311 nonemergency system to make sure the problem gets fixed. The service center also highlights the difference between 311 and 911 this way: ***for a burning question, use 311; a burning building, dial 911.***

comments. The system also supports long-range planning by letting you know which issues and concerns recur most often. Your job as an elected official is to be sure that

- There is a reliable customer service system in place
- You get regular summaries of questions, complaints, and requests for service both to monitor responsiveness and to identify potential policy issues
- The governing body is available to resolve issues that have not been addressed through normal administrative procedures.

The most important component of your citizen reporting system is feedback/closure. Someone needs to take responsibility for ensuring that the complaint or problem is addressed and that the citizen knows the outcome.

Structured Input

Methods of getting structured input include public hearings and public input at regular governing body meetings, community workshops, citizen advisory groups, and surveys.

A **public hearing** is a separate event—sometimes required by law—to get reactions to a specific issue or planned action. For example, most local governments hold public hearings to get citizen comments before adopting the annual budget.

Citizen comment periods at regular meetings allow public comment on a wide range of issues. To increase the value of public comment periods, it is helpful to define and publicize procedures for participation. Some local governments also provide guidelines to help residents make successful presentations at public meetings.

You can use your outgoing communication tools—Web site, community newsletters, billing inserts, and news releases—to announce the dates and purpose for upcoming public hearings, and to encourage participation.

While public hearings are among the most frequently used methods of getting citizen input, many elected officials rate them as one of the least effective approaches. The citizen with an ax to grind is sometimes the most regular presenter, and this common situation creates stress for the governing body and may discourage other citizens from participating. Because public hearings are often required by law and because many citizens expect to have opportunities to provide input at governing body meetings, the challenge is to try to make those opportunities useful and productive.

Some ways to maximize the value of public hearings include

- **Defining and publicizing the purpose of the meeting:** Public hearings are generally used for advice, guidance, and direction from the public. If that is the purpose, let everyone know that the governing body will listen carefully, take notes, accept copies of formal presentations and use that input for a future decision-making session. Other forms of public participation such as

Fort Collins, Colorado (www.fcgov.com), has a section of its Web site called *Your Voice* that invites citizens to participate in governing body decision making. It highlights upcoming governing body decisions, provides information about issues and action to date, and defines when and how citizens can provide comments.

Mountain View, California (www.mountainview.gov), has a *Council Watchers Guide* that provides information about how citizens can get involved in governing body meetings, including when meetings are scheduled, where to get agendas and staff reports, how the council conducts its business, and how to participate.

Sunnyvale, California (www.sunnyvale.ca.gov), offers *How to Make Your Council Chambers Presentations More Effective,* a guide that provides participation procedures; suggestions on how to make a successful presentation, including recommended materials to use and technology resources that are available to presenters; and a contact in city hall for further guidance.

workshops, community meetings, and special advisory committees are more useful if your primary purpose is to educate, persuade, or engage citizens in joint decision making.

- **Clarifying procedures and time limits:** Setting and enforcing specific boundaries will help the chair manage the process.
- **Anticipating the audience and planning for it:** Advance sign-up will help the chief administrator and governing body prepare for the session. If a large turnout is expected, consider holding multiple hearings to accommodate everyone and manage the participation. Overflow crowds with citizens standing in the hall instantly create tension. If you know your turnout will exceed the capacity of your governing body chambers, move the hearing to a place that can accommodate everyone comfortably.
- **Providing easy-to-understand background information in advance and at the meeting:** Background information prepared by the chief administrator and expert staff helps get participants on the same page—even if they don't agree with the direction.
- **Being prepared together:** The council chair or mayor should make sure that the right substantive experts are available to answer questions, should be personally familiar with the details of the issue, should plan in advance how to manage the meeting, and should make sure that all members of the governing body understand and abide by the agreed-upon procedures.

Community workshops that are designed to get information *out* can easily become community workshops to get information *in* on specific issues. The approach is the same: governing body members and expert staff go out to neighborhoods to meet with all interested residents about government business. You can engage and inform the community while getting their reactions, suggestions, guidance, and support before you make a policy decision. A series of well-planned and well-publicized workshops provide two-way education: citizens learn more about a pending policy issue, and the governing body and staff get input on citizen concerns and preferences to guide decision making.

Invitational meetings bring together smaller groups for in-depth discussion and guidance. Local governments use advisory committees for invitation-only meetings. As an alternative, a few neighborhood meetings with invited community leaders can provide useful input without creating a specific committee.

Focus groups are invitation-only meetings involving fewer than fifteen people; their purpose is to gather reactions to a specific idea or program. Popular for "market research," focus groups work best with a skilled facilitator who uses a prepared list of questions to guide the discussion. For the most reliable information, it's good to use multiple focus groups involving different cross-sections of citizens who discuss the same questions with the same facilitator.

Appointed citizen committees with a clear mission generate good ideas, encourage productive participation, educate citizens about public policy, and broaden ownership for governing body decisions. Your local government may have both standing committees that have a continuing annual mission and special committees that are created to respond to a specific issue or challenge. The governing body usually appoints members of citizen advisory committees, taking into account

- Expertise in the area that the committee works on
- Balanced community representation
- An expressed interest to serve and willingness to participate actively and fairly.

If you are newly elected to the governing body, be sure to get a list of all existing advisory groups, their current members, and members' terms of office.

Neighborhood advisory groups engage residents where they live and broaden opportunities for communication and connections. Members of the advisory groups are generally elected by the neighborhoods they represent and view themselves as spokespersons for the neighborhoods that elect them. Although connected to the government, the groups tend to operate independently. They provide good venues for workshops on important policy issues. Residents sometimes go to a neighborhood advisory meeting to register a complaint before, or instead of, going to the governing body meeting; doing so can lead to an early resolution of problems.

Burlington, Vermont (www.ci.burlington.vt.us), has seven elected neighborhood planning assemblies that were established to encourage citizen participation in local government. Working as neighborhood advocacy groups, the assemblies improve communication between citizens and city government through regular meetings where residents learn about issues that affect them and advise the city about their concerns and needs. Typical assembly topics include ballot questions and candidate forums, development projects in the neighborhood, and updates on street and sidewalk repair projects. Each assembly elects representatives to a citywide board that approves neighborhood grant applications for improvement projects.

The **Columbia Council of Neighborhoods (CCN)** (www.columbianeighborhoods.org) is a volunteer, community-based organization that coordinates the activities of more than eighty neighborhood groups in **Columbia, South Carolina.** The council's mission is to improve communication between diverse neighborhood groups, and to serve as a link between neighborhood groups and city officials. The Columbia Zoning Board, Planning Commission, and city council routinely request input from CCN and its members.

Your community probably has a range of citizen and neighborhood groups with no formal connection to the government—for example, the League of Women Voters, service groups, neighborhood associations, political caucuses, and special-interest groups. These groups can provide valuable connections to residents who might not otherwise get involved in government business but have perspectives worth listening to. As an active community resident before your election, you may already have strong ties to some of these groups.

Citizen surveys help assess policy effectiveness and provide reliable feedback on what residents think of current services, what new services they are willing to pay for, and what services they could live without. Citizen surveys also help you refine your public relations program by identifying areas where public perceptions of services are out of sync with the leadership team's perceptions. Perhaps most important, surveys help you connect with a broader audience that may never come to a meeting, serve on a committee, or register a personal complaint.

Your systems and methods for outgoing and incoming communication should be broad and diverse to maximize the connections with the people you serve and contribute to better decisions for the entire community.

Communicating in Times of Crisis

A community crisis tests your communication skills and processes as well as your leadership team's capacity. Whether it is a natural disaster such as a tornado, a

violent incident such as a school shooting, or a political crisis such as a major financial shortfall, your governing body's ability to work together and speak with one voice will be pushed to the limit. A crisis can lead to confusion, conflict, and controversy. A good communications plan is important to manage and minimize all three.

Your ability to respond depends on having a comprehensive emergency response plan in place—and on being familiar with all aspects of that plan. From a communication perspective, your biggest challenges will be

- Speaking with one voice
- Keeping the public informed
- Managing the media.

Speak with One Voice

In times of crisis, your citizens will look for one familiar and reliable voice that can provide clear and consistent information. Your emergency response plan should define communication roles, including who the primary spokesperson will be.

The mayor is generally the lead spokesperson for the government during a crisis, working in partnership with the chief administrative officer and other experts who provide details as needed. In many cases, the mayor will defer to top staff to answer technical questions and provide detailed guidance. When more than one person uses the microphone, messages should be consistent, clear, and supportive. That means making sure that anyone who might be asked to comment or may fill in as a spokesperson during the crisis is kept up-to-date on the latest news. Regular briefings for key leaders between public statements will help keep everyone on the same page.

In a political crisis, speaking with one voice is tough. The public needs to see a governing body working together to solve problems rather than publicly disagreeing.

Keep the Public Informed

Whether you are the spokesperson or a member of the team relaying the words of the spokesperson, present what you know as soon as you know it. Sometimes announcing that you don't have all the information yet is better than saying nothing at all, which opens the door for even less informed sources to try to fill the gaps.

Think about the many times you have watched other public officials deal with major crises in a national media spotlight. Honesty, confidence, and commitment to get through the crisis generally go over best. That demeanor is hard to sustain when your community has been leveled by a tornado. But that's what residents expect from their local leaders.

Tips for Working with the Media

- ***Coordinate closely with your chief administrative officer or press office if your local government has one.*** Generally, the city staff is the primary point of daily contact with the media and can provide support and guidance to elected officials who are dealing with the media.
- ***Always be prepared when talking with a reporter.*** If a reporter calls you directly, find out what he or she is looking for, and buy some time to coordinate with key staff and prepare yourself for the interview.
- ***Focus on a few key points and stay with them.*** Three key messages about an important issue with examples of how the issue will affect residents will help get your message across. Even if the questions move in different directions, try to refocus the conversation to your three points.
- ***"No comment" is never a good response.*** It suggests that you know something that you aren't sharing. If you don't have the information or can't provide a complete answer to the question at that moment, say so.
- ***Be responsive to build a positive relationship.*** Respect the reporter, the deadlines, and the job of covering a local government. While relations with the media are sometimes contentious, start from the assumption that you can build a positive relationship by being open, responsive, available, and respectful. Never ignore a call from a reporter. If you aren't the right contact, make sure someone from your local government returns the call.
- ***Assume that everything is on the record and that whatever you say will be published.*** While many reporters use categories such as not-for-attribution, background, and off-the-record, the best way to talk to a reporter is to assume that nothing is really off the record.
- ***Consider using op-eds and letters to the editor to communicate local views.*** Op-eds and letters to the editor are good ways to get your message out about a new program, service, or challenge in the community.

Manage the Media

The media can be a good resource for sharing information during a crisis. A natural disaster involving emotions and shared loss offers a better chance for a positive media relationship than a political crisis. In either case, however, reaching out to the media rather than avoiding it will produce better results.

Press conferences and briefings with local media at regularly scheduled intervals will help you manage the information and your time.

Depending on the magnitude of the crisis, the arrival of national media can have a major impact on your communications strategy. In the aftermath of major

storms, local officials say the onslaught of national media constantly seeking interviews and updates puts enormous pressure on local leaders, particularly in small communities with limited staff resources or media experience. Your emergency communications response plan should anticipate the possibility of national media and establish procedures for managing those resources positively and productively. Designating one senior staff person who has communications experience to serve as the primary media contact, and scheduling specific times for regular media briefings, will help you manage national media presence and get reliable information out.

Political crises present different challenges in dealing with the media because the facts are less clear and the opportunities for speculation, placing blame, and creating conflict are much higher. Aggressive media may nurture and exploit speculation, blame, and leadership conflicts.

As a local leader, you need to keep your eye on your bottom lines—solving the problem, speaking with one voice, and keeping the public informed with whatever facts are available. Use the same tools you use for communicating positive information: carefully worded news releases, briefings that provide factual updates, and thoughtful and timely responses to reporters' questions.

Recap

- Communicating with the public is a government obligation. Good communication builds strong connections with citizens, and strong connections build a strong community.
- Successful communication goes two ways. It includes regular and diverse approaches to getting your message out, and equally regular and diverse approaches to getting input from the public.
- Technology facilitates local government communication, but it must be balanced with other communication tools to avoid widening the digital divide.

Recommended Local Reading

- Your local government Web site from your perspective as a local leader
- Recent community newsletters and news releases
- Mandates and membership lists for existing committees that the governing body appoints
- A list of other community groups that interact with the government, including their key leaders



Learning About Professional Managers

Key Facts about Professional Managers

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KEY FACTS ABOUT PROFESSIONAL LOCAL GOVERNMENT MANAGERS

The Basics

What is a professional local government manager?
A professional local government manager is an appointed administrator hired to serve the mayor, elected governing body, and community. A professional manager is similar the chief executive officer of a corporation.

Do all city, town, and county governments have managers with professional training in public administration?
No. Elected officials manage some local governments.

How many cities, towns, and counties are served by professional local government managers?
Professional managers oversee the day-to-day operations of more than 59 percent of cities and towns with a population of 2,500 and over, and 27 percent of counties across America.

What are professional local government managers called?
You can recognize them by many titles: city manager, town administrator, county executive to name a few.

How are professional local government managers hired?
Usually, the jurisdiction's elected officials hire the manager through a recruitment process they develop, or by promoting a deputy manager.

Why are professional local government managers hired?
The elected governing body hires a manager to implement their policies and programs and oversee the day-to-day business of the govern-ment in an ethical, transparent manner.

Are professional managers political appointees?
No. Professional managers are non-partisan and non-political, dedicated to the overall well-being of the community. They are committed to fair use of public resources and respect the rights and responsibilities of both elected officials and residents.

What kind of education and training do they have?
Nearly 65 percent of the managers surveyed by ICMA (the International City/County Management Association) in 2012 indicated they had earned a masters degree, usually in public administration, business, public policy, or some other advanced degree.

Demographics

What is the average tenure of a city, town, or county manager?
Just over seven years, according to ICMA's 2012 State of the Profession Survey.

How much experience do most managers have in local government management?
Twenty years, according to the same survey.

How many managers are women?
Roughly 16 percent of ICMA Member CAOs (Chief Appointed Officers) are women.

What is the racial and ethnic makeup of professional managers?
In 2012, 95.5 percent of respondents to ICMA's State of the Profession survey indicated that they were Caucasian; 2.9 percent African American; .3 percent Asian American; .7 percent Native American; and .7 percent other.

What is the average age of professional local government managers?

As of 2012, only 11 percent of professional local government managers were 40 OR younger and only 1 percent were under 30.

Duties, Responsibilities, and Skills

Exactly what do professional local government managers do?

A manager's responsibilities can vary from community to community, but they will include a combination of:

- Working with elected officials to develop and implement policies and programs
- Managing the day-to-day operations of the local government staff
- Using community values and rigorous program evaluation to make choices based on priorities in times of tight budgets, as well as finding creative solutions to meet needs that might otherwise go unmet.
- Coordinating and creating the complex budgets and materials necessary for local governments to apply for bonds and achieve the best-possible bond rating. The better the bond rating, the lower the interest rate taxpayers pay.
- Coordinating the delivery of services such as police, fire, sanitation, street repairs, and upkeep of parks and facilities
- Involving residents, businesses, civic groups, and other members of the community in building communities they're proud to call home

Ensuring that laws and policies are enforced fairly throughout the community

What kind of knowledge and skills do managers need?

Just as a manager's responsibilities may vary from community to community, so, too, do the knowledge and skills s/he needs for the job. They can include:

- Administration—Supervising people, budgets, and projects
- Leadership—Bringing a community-wide perspective, meeting today's needs while planning for tomorrow's, promoting excellence and innovation
- Finances—Ensuring the cost effectiveness of programs, balancing budgets, and securing the financial health of the community
- Management—Mediating, negotiating, encouraging inclusiveness, and consensus building
- Ethics—Commitment to accountability and the highest ethical standards

Compensation

How is the compensation of professional local government managers determined?

It's determined by the elected governing body and should be based on the position requirements, the complexity of the job, the leadership needed, labor market conditions, cost of living in the community, and the organization's ability to pay.

What is the general range of salaries?

ICMA's 2016 report, "CAO Salary and Compensation: The Big Picture," finds the median salary reported for chief appointed officers is $129,062 annually (meaning that half the respondents earn more and half earn less). The lowest median salary reported was $63,985 in Maine; the highest was $261,000 in California. Of course, as with most executive jobs, the salary figure is arrived at by weighing the complexities of the job, the size of the budget the manager would need to manage, the skill set needed to do the job well, and the wage the government can afford.

What other types of compensation can managers receive?

Managers' compensation is commensurate with that of executives of any similarly sized businesses in that it may include items such as pension or retirement, health insurance, etc., but generally it will be less than in the private sector.

Terms of Service and Severance

What kind of job security do managers have?

Local government managers are typically considered at-will employees and can be terminated without cause at the discretion of the governing body or mayor.

Are they eligible to receive a severance package if they're terminated?

It depends on the employment agreement or contract they negotiate. ICMA's 2016 survey found that 90 percent of managers are eligible to receive severance pay, the amount of which varies mostly based on tenure. In line with standard business practices, the most common amount of severance pay is about six months.



Learning About Professional Managers

Professional Local Government Management: The Benefits to Your Municipality

Life, Well Run

Professional Local Government Management





The Benefits to Your Municipality

ICMA *Leaders at the Core of Better Communities*

Political Leadership and Professional Management in Today's Cities and Towns



Hiring a professional administrator, appointed by the city or town's governing body, is a trend on the rise in municipal government. Historically, many cities and towns were governed by commissions, councils, or boards whose members had both legislative and executive responsibilities. This system functioned effectively when municipal government was smaller and limited in scope and complexity. With the expansion of the responsibilities of cities and towns however, the policy-making demands of governing bodies greatly increased, as did the need for technical competence in the management of the operation and delivery of services. Today's elected board members can better fulfill their legislative or policy-making roles and maintain their overall control of service delivery by delegating the day-to-day management of the municipality to an appointed professional administrator.

Making the Change to Professional Management

Employing a professional manager or administrator frees elected officials from the administration of daily operations and gives them time to focus on the policy issues that will guide the future of the community. It empowers elected officials to provide leadership, develop a vision for the community, determine what services to provide citizens, lobby the state legislature on the community's behalf, and communicate and forge new relationships with constituents. The professional manager, appointed by the governing body, oversees the day-to-day operation and the implementation of policy.

Before a professional manager or administrator can be hired, a municipality's structure of government must be modified to provide for the position. The process of creating a position of city or town manager or administrator can vary from state to state. Some municipalities have the authority to act on their own initiative in that they can adopt local ordinances, laws, or resolutions to create the position of city manager or administrator. In states where municipalities may write their own charter under home-rule provisions, a number of municipalities have taken advantage of that opportunity to create a professional administrator position. Some states have enacted statutes providing for alternative forms or optional charters for local governments to adopt. Lastly, structural change can also be accomplished in some states by obtaining charters through special legislation adopted by the state legislative body.

What Value Does a Professional Manager Bring to a Community?

Professional managers bring value to a community because they:

- Work in partnership with elected officials to develop sound approaches to community challenges by bringing together resources to make the right things happen and produce results that matter

- Bring a community-wide perspective to policy discussions and strive to connect the past and future while focusing on the present. They help the governing body develop the long-term vision for the community that provides a framework for policy development and goal setting
- Promote ethical government through commitment to a set of ethical standards that goes beyond those required by law
- Encourage inclusion and build consensus among diverse interests (including those of elected officials, the business community, and citizens) by focusing on the entire community rather than the centralized interests of one or two individuals
- Promote equity and fairness by ensuring that services are fairly distributed and that administrative decisions (such as hiring and contracting) are based on merit rather than favoritism
- Develop and sustain organizational excellence and promote innovation. Professional managers focus relentlessly on efficient and equitable service delivery, policy implementation, and evaluation. They align the local government's administrative systems with the values, mission, and policy goals defined by the community and elected officials.

How Your Municipality Would Benefit from Hiring a Professional Administrator

The appointed manager or administrator is charged with carrying out the policies established by the elected officials and with delivering public services efficiently, effectively, and equitably. Elected officials, in turn, have more time to concentrate on creating a vision for the community's future.

- Day-to-day operations are managed by a professional who is educated and trained in current city and town management practices, state and federal laws and mandates, and cost-effective service delivery techniques

- Responsiveness to citizens is enhanced by centralizing administrative accountability in an individual appointed by the elected governing body
- The professional manager or administrator brings to the communities they serve technical knowledge and experience, academic training, management expertise, and a dedication and commitment to public service.

Ethical Conduct: Honoring the Public Trust

City and town managers or administrators who are members of the International City/County Management Association (ICMA) are bound by its Code of Ethics, which states that every member of the organization shall act with integrity in all personal and professional matters so that they will merit the respect and trust of elected officials, employees, and the public. This stringently enforced Code specifies 12 ethical principles of personal and professional conduct, including dedication to the cause of good government. ICMA members believe in the effectiveness of representative democracy and the value of government services provided equitably to residents within a community. ICMA members are also committed to standards of honesty and integrity that go beyond those required by the law. For more information, contact ICMA or visit http://icma.org/ethics.

Responsiveness to Citizens

City and town managers or administrators are appointed by and serve at the pleasure of the elected legislative body. They generally do not have guaranteed terms of office or tenure. They are evaluated based on their responsiveness to the elected legislative body and to the community and on their ability to provide efficient and effective services. If the administrator is not responsive to the elected officials, he or she may be terminated at any time. In that sense, the manager or administrator's responsiveness is tested daily.

How to Hire a Professional Manager or Administrator

1. Consider your municipality's unique demands and needs

Many managers and administrators have studied local government management at the graduate level and have held positions of increasing authority. Beyond the basic education and experience requirements of the position, you should develop a job description that encompasses your expectations and outlines measurable objectives that you want to accomplish. You should also develop a management profile of the administrator that matches your expectations.

ICMA can offer your municipality materials to facilitate this process. ICMA's *Recruitment Guidelines for Selecting a Local Government Administrator* contains tips on recruiting applicants, determining finalists, and interviewing techniques. To locate a downloadable copy of this document, go to the ICMA JobCenter (jobs.icma.org).

2. Begin your search

Determine whether you want to conduct your own search or work with an executive recruitment firm. Prepare and place your advertisements in publications that will attract the most qualified local government candidates such as the *ICMA Newsletter*, the ICMA JobCenter, and/or state association publications.

3. Make the selection

- Review résumés and identify potential candidates based on their experience and the criteria you developed earlier
- Select the top candidates and schedule interviews with your evaluation panel
- Upon reaching a decision, negotiate the terms and conditions of employment with your new manager or administrator and formalize a written agreement
- At this time, it is important to develop mutually agreed-upon goals and establish an annual review process through which the elected body and the manager or administrator can discuss performance.

Resources

International City/County Management Association (ICMA)

777 North Capitol Street, NE, Suite 500
Washington, DC 20002-4201
Phone: 202-289-ICMA
Fax: 202-962-3500
Website: www.icma.org

The International City/County Management Association (ICMA) promotes excellence in local government through professional management. ICMA provides an information clearinghouse, technical assistance, and training and professional development to nearly 9,000 chief appointed administrators, assistant administrators, and other individuals throughout the world. To obtain an informational packet on the benefits of professional city or town management, visit ICMA's website at icma.org/formofgovt or email Jared Dailey, Assistant Program Manager, at jdailey@icma.org.

National Civic League (NCL)

1145 Market Street, Suite 300
Denver, CO 80202-1728
Phone: 303-571-4343
Fax: 303-571-4404
Website: www.ncl.org
Email: ncl@ncl.org

The National Civic League is a nonpartisan citizens' organization founded in 1895. Its purpose is to serve as a clearinghouse for information on methods of improving state and local government; to encourage citizen participation in state and local government; and to provide guides, model charters and laws on specific local government topics. The *Model City Charter* was specifically prepared to give municipalities a general plan of structuring their local government based on the principles of the council-manager form. For more information about National Civic League publications, visit www.ncl.org. Several publications are also available through ICMA's online bookstore at http://bookstore.icma.org.

PROFESSIONAL LOCAL GOVERNMENT MANAGEMENT: THE BENEFITS TO YOUR MUNICIPALITY

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Hiring a Professional Local Government Manager

Elected officials can better fulfill their legislative or policy-making roles by delegating the management of the municipality to an appointed professional administrator.

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The Benefits of Professional Management

- The appointed manager or administrator is charged with carrying out the policies established by the elected officials, and with delivering public services efficiently, effectively, and equitably. Elected officials, in turn, have more time to concentrate on creating a vision for the community's future.
- Day-to-day operations are managed by a professional who is educated and trained in current local government management practices, state and federal laws and mandates, and cost-effective service delivery techniques.
- Responsiveness to citizens is enhanced by centralizing administrative accountability in an individual appointed by the elected governing body. Local government managers or administrators are appointed by and serve at the pleasure of the elected legislative body. They generally do not have guaranteed terms of office or tenure. They are evaluated based on their responsiveness to the elected legislative body and community, and on their ability to provide efficient and effective services. If the administrator is not responsive to the elected officials, he/she may be terminated at any time. In that sense, the manager's or administrator's responsiveness is tested daily.

- Professional managers or administrators bring technical knowledge, experience, academic training, management expertise, and dedication to public service.

Duties of an Appointed Manager or Administrator

- Carries out policies adopted by the elected officials.
- Manages local government services, which may include public works, public safety, planning and economic development, parks and recreation, libraries, youth services, resource recovery and recycling, and utilities.
- Prepares a comprehensive annual budget and capital improvement program.

- Ensures fiscal responsibility and modern accounting practices.
- Develops performance measurement systems for local government services.
- Applies for and administers federal, state, and private foundation grant funding.
- Recruits, hires, and supervises the workforce of the local government, including key department heads.
- Prepares council or board meeting agenda materials.
- Develops long-range plans with guidance from elected officials and assists in the achievement of common goals and objectives.
- Facilitates the flow of ideas and information between and among elected officials, employees, and citizens.

Ethical Conduct: Honoring the Public Trust

ICMA members are committed to standards of honesty and integrity that go beyond those required by law. Local government managers or administrators who are members of ICMA agree to abide by its Code of Ethics, which specifies 12 principles of personal and professional conduct, including dedication to the cause of good government. ICMA members believe in the effectiveness of representative democracy and the value of government services provided equitably to all residents of their communities. The Code is enforceable by a confidential peer review process.

How to Hire a Professional Manager or Administrator

First Steps

Before a professional manager or administrator can be hired, a local government's structure of government must be modified to provide for the position. The process of creating a position of manager or administrator can vary from state to state.

- Some local governments have the authority to act on their own initiative to adopt local ordinances, laws, or resolutions to create the position of manager or administrator appointed by the elected governing body.
- In states where local governments may write their own charter under home-rule provisions, a number of them have taken advantage of that opportunity to create a professional administrator position.
- Some states have enacted statutes providing for alternative forms or optional charters for local governments to adopt.
- In some states, structural change can take place by obtaining charters through special legislation adopted by the state legislative body.

Consider your municipality's unique demands and needs

Many managers and administrators have studied local government management at the graduate level and have held positions of increasing authority.

- Beyond the basic education and experience the position requires, you should develop a job description that outlines your expectations and the measurable objectives you want to accomplish.
- You should also develop a profile of the administrator who will best serve your community's needs.

ICMA can help your local government facilitate this process. ICMA's Recruitment Guidelines for Selecting a Local Government Administrator (download below) contains tips on recruiting applicants, determining finalists, and interviewing techniques.

Begin your search

- Determine whether you want to conduct your own search or work with an executive recruitment firm.
- Prepare and place advertisements in publications that will attract the most qualified local government candidates, such as *Leadership Matters* (the ICMA Newsletter), ICMA JobCenter, and/or state association publications.

Make the selection

- Review resumes and identify potential candidates based on their experience and your criteria.
- Select the top candidates and schedule interviews with your evaluation panel.
- Upon reaching a decision, negotiate the terms and conditions of employment with your new manager or administrator and formalize a written agreement.
- At this time, it is important to develop mutually agreed-upon goals and establish an annual review process through which the elected body and the manager or administrator can discuss performance.

Downloads

Recruitment Guidelines for Selecting a Local Government Administrator

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Recruitment Guidelines for Selecting a Local Government Administrator



January 2012

ICMA

Leaders at the Core of Better Communities

Recruitment Guidelines for Selecting a Local Government Administrator

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About ICMA

ICMA advances professional local government worldwide. Its mission is to create excellence in local governance by developing and advancing professional management of local government. ICMA, the International City/County Management Association, provides member support; publications, data, and information; peer and results-oriented assistance; and training and professional development to more than 9,000 city, town, and county experts and other individuals and organizations throughout the world. The management decisions made by ICMA's members affect 185 million individuals living in thousands of communities, from small villages and towns to large metropolitan areas.

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Preface

This *Recruitment Guidelines for Selecting a Local Government Administrator* was first published just over ten years ago. While a lot has changed in ten years, the basic process for selecting a chief administrator[1] has remained substantially the same. It still requires careful planning, astute evaluation of candidates, and a clear understanding of the relationship between the governing body[2] and the chief administrator. In this edition, however, new focus has been given to the ICMA Code of Ethics—the foundation of the local government management profession—and the emergence of the Voluntary Credentialed Manager program.

The Task Force on Recruitment Guidelines was formed in Fall 2010 and consisted of a very diverse group of ICMA members (many of whom have served on the ICMA Executive Board), Range Riders (former local government practitioners), younger members of the local government management profession, and representatives from executive search firms. From its only face-to-face meeting at the 2010 ICMA Conference in San José, this Task Force embraced the challenge of updating the guidelines. Over the next several months, we formed work groups to focus on three key elements of the process: recruitment, selection, and negotiation. After countless conference calls and emails, the new and improved *Recruitment Guidelines for Selecting a Local Government Administrator* emerged.

The Task Force consisted of the following ICMA members:

Jane Bais-DiSessa
City Manager
Berkley, Michigan

Bill Baldridge
Executive Search Committee
Former City Manager
Michigan Municipal League

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Rolling Hills, California

Ed Daley
City Manager
Hopewell, Virginia

Tim Ernster
City Manager
Sedona, Arizona

Tom Fountaine
Borough Manager
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1 Chief administrator refers to a manager, administrator, or executive of a local government.

2 Governing body refers to the elected officers of a town, village, borough, township, city, county, or a legally constituted council of governments.

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Former City Administrator
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Special appreciation is extended to Tom Fountaine for serving as the negotiation section chair; Peter Herlofsky, selection section chair; and Debra Kurita, recruitment section chair. Debra Kurita deserves special recognition as she labored many hours converting writing styles and formats into one consistent, easy-to-read document. On behalf of ICMA, I am grateful for the active engagement of each Task Force member. Special thanks to Jared Dailey of the ICMA staff, who assisted in the overall coordination of the Task Force.

It is the hope of the Task Force that this guidebook is promoted and distributed to those who are in the environment to hire a chief administrator for a community. To the governing body representatives who use this guidebook, we thank you for your service to your communities and wish you every success in finding the professional local government manager to help you guide your community to be the best it can be.

In closing, it has been my privilege to have served as the chair of this Task Force.

Bonnie Svrcek
Deputy City Manager
Lynchburg, Virginia

Contents

1. Introduction 1

2. Managing the Organization during Recruitment 2
Major Decision Point: Appointing an Interim Administrator 2
Interim Management: The Governing Body's Role 2

3. Initiating the Recruitment 3

4. Conducting the Recruitment 4
In-House Expertise Method: Recruitments Conducted by the Local Government 4
Outside Expertise Method: Recruitments Conducted with an Outside Party 4
Hybrid Method: In-House in Conjunction with Outside Party. 5

5. Key Elements of the Recruitment Framework 6
Major Decision Point: Development of an Administrator Profile 6
Decision Point: Community Engagement in Administrator Profile 6
Major Decision Point: Administrator Compensation Schedule 7
Geographic Scope 7
Advertising and Outreach Strategies 8

6. Key Elements of the Application Process 10
The Application Form 10
The Local Government Information Packet 10
Applicant Relations 10

7. The Role of the Media in the Recruitment Process 12

8. The Selection Process 13
Reviewing the Applications 13
Major Decision Point: Determining the Candidates to Be Interviewed 13
Interviewing the Candidates 14
Major Decision Point: Making the Final Selection 16

9. The Negotiation Process 17
Preparation for Negotiation 17
Major Decision Point: Negotiating Compensation. 17

10. The Transition Process 19
Announcing the Selection 19
Additional Elements 19

11. Conclusion 20

Appendix A. ICMA Code of Ethics with Guidelines 21

Appendix B. ICMA Guidelines for Compensation 25

Appendix C. Professional Organizations to Consider Posting Position Vacancy 27

Appendix D. Potential Interview Questions 33

Appendix E. Relations with Applicants—Do's and Don'ts 35

Appendix F. ICMA Model Employment Agreement 36

Index 43

1. Introduction

"Thousands of decisions are made every day in cities, towns, and counties that determine our quality of life.... Professional managers craft the plans and make the decisions that transform good communities into great ones.

–International City/County Management Association (ICMA)

Selecting a chief administrator is perhaps the most important decision that elected local officials will make for their community.

This guidebook was created by experienced, seasoned local government managers. It is designed to help elected officials, human resource professionals, local government staff, and professional executive search firms navigate the recruitment, selection, and negotiation processes to find the individual who is best suited to serve as the chief administrator. The chief administrator is like an orchestra conductor, directing and managing a team of professional, administrative, and field staff while interpreting and working toward the goals and objectives of the community's elected officials.

This guidebook offers best practices that will be most meaningful to you and your community in selecting a chief administrator. Because all communities, governing bodies, and chief administrators are not the same, this is not a "one size fits all" guidebook. Nevertheless, the local government managers who created this document are firmly committed to the ICMA Code of Ethics, which is a non-negotiable foundation for professional local government management, and strongly recommends that the hiring governing body use the Code of Ethics as a tool in its search for a professional local government manager. Herein, we explain recruitment choices and the selection processes to fit the unique size, culture, and dynamics of an individual community. Topics include provisions for interim management; the spectrum of resources available to assist in the recruiting process; applications, communications with applicants, and interviews; compensation; and transition. The appendices provide the ICMA Code of Ethics, ICMA Compensation Guidelines, a directory of professional organizations that are likely places advertise for a chief administrator, potential interview questions, the do's and don'ts of applicant relations, and the ICMA Model Employment Agreement. Using this guidebook can make recruiting and selecting a new chief administrator a positive, enjoyable, and unifying experience for you and your colleagues as elected officials.

As you use this resource, you will see highlighted in the margins important points for selecting the best individual for the position.

When faced with an upcoming or immediate vacancy in the chief administrator position, the governing body must quickly address the following questions:

- What should we do to ensure that the affairs of the local government are properly administered until a new chief administrator is selected and on board?
- How do we conduct a recruitment to fill the vacancy?

The following material provides tips and guidelines on the processes that the governing body needs to employ to successfully answer these questions. It identifies and discusses the key elements of managing the organization between the time that one chief administrator departs and another arrives, as well as the major decision points in conducting the recruitment, selection, and negotiation processes for appointing the new chief administrator.

Professional local government managers are committed to

- Serving as stewards of representative democracy
- Practicing the highest standards of honesty and integrity in local governance, as expressed through ICMA's Code of Ethics
- Building sustainable communities as a core responsibility
- Networking and exchanging knowledge and skills across international boundaries
- Lifelong learning and professional development
- Financial integrity and responsibility for management of the community
- Implementing best management practices.

2. Managing the Organization during Recruitment

The governing body must act thoughtfully and deliberately in determining how to ensure that the operations of the local government are properly managed during the period before a permanent chief administrator is selected and on the job. When faced with a vacancy in the chief administrator position, the governing body needs time to carefully consider the qualities, expertise, and experience it hopes to find in a new administrator and to use the agreed-upon criteria to develop the administrator profile. It then needs sufficient time to recruit and select the best possible successor who meets these criteria. While that is happening, however, it is important that the governing body identify a professional who will act as the chief administrator and properly manage local government operations while the recruitment process is underway.

Major Decision Point: Appointing an Interim Administrator

If the vacancy is the result of a planned retirement, the governing body may consider asking the current administrator to continue leading the organization for a short period of time on a contract basis. Alternatively, the governing body may elect to consult with the outgoing administrator regarding possible staff members who could fill this role.

In some cases, the members of the governing body may agree that they have confidence in a specific staff person. If there is an assistant administrator, for example, the governing body may appoint that person as interim administrator. If this assistant will be considered for the permanent position, the appointment as interim administrator will provide the elected officials with an opportunity to observe firsthand how the assistant handles the job. Another option is to appoint an assistant or department director (who will not be a candidate for the position); someone who is mature, seasoned, competent and respected by fellow employees.

Should the governing body determine that there is no one on staff who it can or wants to appoint as the interim administrator, it may decide to retain the services of a retired administrator or an administrator who is between jobs. State associations, municipal leagues, or ICMA Range Riders are resources for identifying potential interim administrators.

The governing body should publicly announce the appointment of the interim chief administrator. Regardless of who is appointed, it should be made clear to all local government officials and staff that the interim chief administrator is responsible for implementing governing body policy and overseeing operations. It should also be made clear that if the interim administrator is ultimately selected to fill the position permanently, it will be because that person has proven to be the best among all the applicants.

Interim Management: The Governing Body's Role

Obviously, the local government must continue to operate during the interim between the departure of the current chief administrator and the appointment of the new one. The governing body and interim management team should do whatever is necessary to make sure that important projects and service delivery continue to move forward. It is important to reiterate that the governing body has the responsibility to make it clear to the staff and community that the interim administrator is in charge of the organization's operations.

The governing body should consider deferring new initiatives, when possible, until the new administrator is appointed and on the job. After all, to ensure effective administrative leadership in the future, it is desirable that the new administrator be involved in as many policy decisions as possible. Just filling a vacant department director position, for example, is an opportunity for the new administrator to begin building an administrative team. In fact, such an opportunity can be used to pique the interest of potential applicants during the recruitment process.

Although it is not desirable for the governing body to immerse itself in the administrative affairs of the local government, its members should be briefed about current organizational problems and the status of important projects before the current administrator leaves, if possible. In this way, the governing body may monitor progress on important matters, provide direction, and set priorities for the person selected as interim administrator.

3. Initiating the Recruitment

The governing body should initiate the recruitment process immediately after the official decision has been made regarding resignation, retirement, or termination. Failure to do so can potentially generate rumors within the community by various interested parties who may attempt to exert pressure on members to quickly fill the vacancy. The members of the governing body must bear in mind that an impulsive response to this pressure can be divisive for them and can damage their credibility. They must take charge of the recruitment: they must determine the process that will be used to recruit and select the best administrator, and make that decision clear to all concerned.

There may be a number of special circumstances that influence the approach and timing used to recruit a new chief administrator. The following examples provide some tips for addressing those circumstances:

- **Vacancy due to the chief administrator's termination or resignation under pressure.** If the position is vacant because the former administrator was terminated or forced to resign, neither the local government nor the former administrator will benefit from a public quarrel. It is far better for all concerned to mutually decide on a timetable for the administrator's departure. If this departure is handled professionally and in a mutually respectful manner, there is less likelihood for controversy and ill will to arise around the issues of the separation. Further, and from a recruiting standpoint, handling a difficult situation well will enhance the local government's image and thus its ability to attract quality applicants.
- **Vacancy occurring prior to an election.** Occasionally, a governing body will delay initiating the recruitment process because an election is pending. But even in the face of an election, it should prepare for the process by developing the administrator profile (described in full later in this document) and determining how the recruitment will be conducted so as to reduce the time lapse between the departure of one administrator and arrival of another.
- **Vacancies due to newly adopted council-manager form of government.** If the position is vacant because voters either just approved the formation of or adopted a change to the council-manager form of government, the beginning of the search for a new chief administrator will depend on when the change becomes effective. Depending on the circumstances, it may be possible to have applications on file by the time the new members of the governing body are sworn in. In any case, the recruitment process should be initiated as soon as possible.

4. Conducting the Recruitment

There are several major elements and decision points in the recruitment process. This section of the handbook provides tips and guidelines for the governing body in determining the approach to use in this part of the process.

The governing body has three major choices for conducting the recruitment. It can:

- Conduct the recruitment in-house
- Retain an outside party to conduct the recruitment
- Use a hybrid approach and conduct the recruitment in conjunction with an outside party.

In-House Expertise Method: Recruitments Conducted by the Local Government

If the governing body chooses to conduct the recruitment in-house, it should be with the understanding that the task will be time-consuming and complex. The governing body may also have to decide whether to conduct the process as a body, delegate the responsibility to the chairperson, or assign the task to a committee of its members. If it elects to delegate the responsibility to one or more of its members, it must be sure to select people who are well respected and have the time to provide the necessary leadership and follow-through.

To provide support in the process, the governing body should seek the assistance of the local government's human resources officer and municipal attorney. In conducting the recruitment in-house, staff can work with the governing body to develop the administrator profile and design an effective and legal recruitment and selection process. Staff can also be responsible for the administrative tasks of placing advertisements, collecting résumés, and scheduling interviews. However, the governing body or its delegated members will approve the selection of the final candidates and conduct the interviews, and, of course, the body as a whole will make the final selection. In this scenario, staff serve as a resource throughout the entire recruitment process.

Outside Expertise Method: Recruitments Conducted with an Outside Party

The governing body can retain an outside party to conduct the recruitment. In some cases the interim or a retired administrator may be asked to coordinate the recruitment process. More often, however, the governing body will contract with a firm that specializes in providing executive search assistance.

When using an executive search firm, the governing body plays an active role in the process. It develops the administrator profile, approves the selection of the applicants, interviews the candidates, and, of course, makes the final selection. The benefit of using an executive search firm is the expertise that the firm brings to the process and its ability to coordinate the recruitment.

Typically the executive search firm begins by meeting with the elected officials either individually or as a group to help them develop the administrator profile. It is the firm's responsibility to facilitate these discussions and help the governing body reach a consensus. After this matter has been settled, the firm coordinates the overall process and assumes responsibility for all tasks until it is time for the elected body to select and interview candidates. During this process, the firm updates the governing body, keeping the members informed of its progress. As the firm will be responsible for all the administrative details, the role of the staff is usually limited to providing information about the local government and coordinating with the firm.

Governing bodies that use an outside service should ensure that a reputable firm, one familiar with the special requirements of local government management, is selected. The experience of the firm should be checked through contact with references—in particular, representatives of local governments that have used its services. Further, the governing body should be fully aware of the costs and benefits when deciding whether to use outside expertise.

Hybrid Method: In-House in Conjunction with Outside Party

In the third alternative, the governing body can conduct the recruitment in-house and supplement the process, where necessary, with assistance from an executive search firm or another outside source, such as an the ICMA Range Rider.

In some cases, the governing body may seek assistance at the beginning of the process to facilitate the discussion, develop the administrator profile, and determine the structure of the recruitment process. In other cases, local government officials may initiate the process in-house by developing the profile and advertising for the vacancy, and they may then use an outside source to help review résumés, conduct reference checks, and structure the interview process. This alternative may be most appropriate if cost is a concern; however, because it also presents opportunities for lapses in communication, the exact responsibilities of each party must be clarified in a written agreement.

5. Key Elements of the Recruitment Framework

Regardless of the method chosen for conducting the recruitment, the governing body must develop a framework for the recruitment process. It must agree at the outset on a number of key issues critical to the success of the recruitment, including criteria for the administrator profile, compensation range and components, and timing and geographic scope of the search.

Major Decision Point: Development of an Administrator Profile

The most significant decision point for the governing body in the recruitment of a new administrator is to define what the members are looking for—that is, to create the administrator profile. The profile will encompass those qualities, characteristics, experience, and areas of expertise that would be found in an ideal candidate. Only by considering how applicants compare and measure against one another and, of course, against the established criteria, can the governing body be sure that the candidate it appoints has the appropriate combination of work experience, management experience, and leadership style to be successful in the position.

The governing body should begin with a survey of its needs and those of the organization. To determine the needs of the organization, the governing body should invite input from the department directors. Items to be considered include size of the local government, composition of the community, services provided, and overall objectives and priorities of the governing body. The work experience, skills, and expertise of the candidates must relate to these factors. The governing body should also consider both the "nuts-and-bolts" skills and abilities, such as budgeting, human resources, and technological know-how, and the "soft" skills, such as the ability to work with people and to lead an organization. These criteria will form the basis for reviewing résumés, selecting finalists, and making a hiring decision.

Unless the governing body can come to consensus on these criteria, it may be difficult to find the right candidate. By reaching consensus, however, the governing body will be better able to inform the applicants on what it is looking for in a chief administrator.

The ICMA Voluntary Credentialing Program recognizes professional local government managers qualified by a combination of education and experience, adherence to high standards of integrity, and an assessed commitment to lifelong learning and professional development. For more information, visit www.icma.org/en/icma/members/credentialing.

Developing the administrator profile helps the governing body define its needs and establishes the groundwork for generating a rich pool of applicants with the skills and abilities to address the needs of the governing body, the community, and the organization.

Decision Point: Community Engagement in Administrator Profile

The governing body must decide whether to engage community members or committees in the recruitment process. In most cases, the local government assumes responsibility for the recruitment and conducts the process without involving members of the community.

In some cases, however, a governing body may seek input from community members or committees when developing the administrator profile. This not only allows the community to be part of the process but also may provide the governing body with a better understanding of the role of the administrator. Depending on the method that the governing body uses to conduct the recruitment, gathering input from the community would be facilitated by staff, the outside recruiter, or the elected officials.

Although community input will be valuable, the governing body will ultimately determine the qualities and experiences to be incorporated into the administrator profile, and this should be clearly communicated to the community. It is, after all, to the governing body that the new administrator will be directly reporting.

Governing bodies need to be very alert to the dangers of either hiring a clone of the outgoing administrator, assuming that person is leaving on good terms, or a polar opposite, assuming that person is leaving on less than good terms. The importance of evaluating the current needs of the governing body and locality cannot be overstated.

Major Decision Point: Administrator Compensation

Another critical element to be considered at the outset of the recruitment process is administrator compensation. It is important for the local government to have some general understanding of the acceptable salary range, but it is also important to have some flexibility. Some local governments identify a range; others provide the salary of the current administrator as an indicator; and still others may leave the salary open, to be commensurate with the new hire's background and experience. The governing body will also determine other components of the administrator's compensation, such as deferred compensation, vacation accrual, and professional development allowances.

It is important for the governing body to make clear that it wants the best administrator it can find. In general, potential applicants for the position will want to have some indication of the salary range and compensation package. But that will be only one of many factors that they will use in deciding whether to apply.

ICMA has developed compensation guidelines for negotiating salary and benefits for local government positions. These guidelines are provided in Appendix B and are also available online at www.icma.org/compensationguidelines. The actual compensation package will be negotiated with the final candidate at the conclusion of the recruitment process.

Schedule

Since top candidates often view applying for a new job as a major career decision, it is important that they have adequate time to consider the opportunity, discuss it with their families, and prepare an appropriate résumé. Similarly, the governing body, staff, or executive recruitment firm needs sufficient time to review résumés and conduct reference checks to ensure that good candidates are not overlooked and that finalists meet the desired qualifications. It cannot be overemphasized that the recruitment should move forward expeditiously while also allowing adequate time for a thorough and comprehensive search.

The timing of the recruitment can sometimes be affected by publication deadlines, which are important in terms of properly advertising the vacant position. An ideal timetable would provide **at least sixty days** from the start of the recruitment to the deadline for submitting résumés; **thirty days** to review résumés, conduct background checks, interview candidates, and make a final selection; and **at least thirty days** for the new administrator to relocate. To maximize flexibility in the process, the governing body may advertise the position with an "open until filled" statement.

Profile: Impact of Special Circumstances:

As the governing body decides on the criteria for the administrator profile, three types of situations should receive special consideration:

1. A local government that has just changed its form of government will ordinarily need an administrator who can inspire local government officials with the enthusiasm needed to implement the new structure. A first administrator in a new structure should be adept at public relations and at establishing relationships with incumbent officials and employees.
2. When an administrator has been dismissed or has resigned under pressure, the governing body tends to look for strengths in areas in which the outgoing administrator showed weaknesses. There are dangers, however, in overcompensating for qualities that have led to dissatisfaction. If the outgoing administrator gave too much freedom to subordinates, for example, suddenly changing to a strong disciplinarian might result in antagonisms that would only lead to further problems. Sometimes a new administrator will be confronted with major problems that must be addressed immediately. If such a situation is anticipated, the governing body should make these circumstances known to any applicant who is being seriously considered.
3. When a popular administrator retires or moves to another local government, the governing body may ask for this person's assistance in the search for a successor. However, the governing body should not overlook the possible need for new strengths or different qualities.

Geographic Scope

Another factor to consider in determining the recruitment framework is the geographic scope: should the search be nationwide, statewide, or regional? A broad geographic search may attract more applicants who have demonstrated an ability to manage in a complex urban environment. On the other hand, a focus on the local government's state or region may provide applicants who have a better understanding of and orientation to local problems, legal issues, financing alternatives, and similar matters. In any event, the new administrator will provide a fresh perspective on the issues and challenges facing the community and the organization.

From the applicant's perspective, it is assumed that the local government is looking for the best candidate and that all résumés, regardless of where the applicant currently works, will be reviewed carefully. The determination of the scope of the recruitment will influence the advertising and outreach strategies used.

Advertising and Outreach Strategies

In order to generate a sufficient and diverse pool of qualified applicants, the governing body should develop advertising and outreach strategies.

Advertising Campaign It is to the advantage of the local government to ensure that every professional who might have an interest in the vacant position is aware of the opportunity to apply for it. Therefore, it is important that the advertising campaign be comprehensive and include a carefully worded advertisement. This does not mean, however, that the campaign has to be extensive or expensive. Most local governments, for example, avoid advertising for an administrator in general circulation newspapers unless there is a local requirement to the contrary; this is an expensive form of advertising that does not reach the targeted audience.

More effective vehicles for advertising for chief administrators can be found with organizations that are directly related to local government. In addition to ICMA, the following sources should be considered:

- National League of Cities
- National Association of Counties
- National Association of County Administrators
- National Forum for Black Public Administrators
- International Hispanic Network
- American Society for Public Administration.

Resources at the state level include state municipal leagues, county associations, and municipal assistants organizations. Many of these organizations publish newsletters or magazines and have a online presence; the subscribers to these resources are the men and women in the public administration and local government management professions. Addresses and websites for these resources are listed in Appendix C.

Local governments have some flexibility when preparing and placing advertisements, but at a minimum, the advertisement should include the following:

- Title of the vacant position
- Name of the local government
- Population of the local government
- Amounts of the operating and capital budgets
- Number of full-time employees
- Services provided
- Statement regarding the compensation package
- Filing deadline, including any special items of information desired such as current salary and work-related references
- A brief description of key areas of interest and desirable experience and qualifications (or a reference or email link to the administrator profile)
- Indication of whether residency is required
- A timetable indicating the principal steps and timeframe for the overall recruitment
- Where and to whom to send résumés with a notation as to whether email submittals are acceptable or required
- Website of the local government.

It should be noted that some publications permit the use of display ads that incorporate the local government logo and/or graphics within an innovative format.

In addition to the advertisement, the governing body, through the staff or the executive recruiter, will usually develop a printed brochure that describes the community, the organization, and the position, as well as providing the administrator profile and the governing body's key goals and objectives.

Outreach Strategy While advertising can generate outstanding applicants and the local government should look closely at all received résumés, the governing body should supplement the advertising campaign by identifying an outreach strategy to ensure that the search extends to the widest possible pool of

qualified applicants. The outreach strategy may have a number of approaches for attracting external candidates, encouraging superior internal candidates to apply, and promoting diversity in the applicant pool.

For External Applicants Useful sources of information about potential external candidates include the current administrator, former and retired administrators, members of the local government, local government officials in adjacent communities, executive directors of state leagues, directors of university public administration programs, leaders of regional municipal assistants, and ICMA Range Riders.

When determining an outreach strategy, the governing body, in conjunction with staff or the recruiter, could consider sending letters to identified individuals advising them of the opening and inviting them to send a résumé if they are interested in the position. The correspondence should include a basic package of information describing the local government and the vacant position. For the purposes of confidentiality, all correspondence should either be sent to the applicant's private residence or marked "Personal and Confidential" if sent to the workplace.

Shortly after the letter has been mailed, a follow-up telephone call should be made to confirm that the correspondence was received, assure the recipient that it was not a form letter, indicate why the position may be a good career opportunity, and answer questions. The same deadline for submitting résumés should be used in both the advertisements and the supplemental letters of invitation.

For Internal Applicants The local government should be sure to inform its employees of the vacancy and of how and when to apply. The governing body itself may directly invite one or more employees, such as the assistant city administrator or a department director, to submit a résumé, or it may do so indirectly through staff or the executive recruiter. Whether in-house applicants are solicited or apply on their own, it is important that they be treated in the same manner as other applicants.

It should be made clear that if an in-house applicant is ultimately selected, it is because the governing body has determined that the candidate was the best choice of all those who applied. While most applicants will receive written notification of their status, the governing body may decide to talk personally with any in-house applicant who was not selected in order to provide good communication with staff, maintain morale, and help ensure an orderly and positive transition.

For Diversity of Applicants Development of a strategy to generate a diverse applicant pool helps to ensure a broad cross-section of candidates. A rich pool with applicants of both sexes and from different races and ethnic backgrounds is beneficial because the chosen candidate will likely bring a different perspective to the organization. Having diversity within a local government can enhance the organization's overall responsiveness to an increasingly more diverse spectrum of residents, improve its relations with surrounding communities, increase its ability to manage change, and expand its creativity.

In addition, the governing body may develop an outreach strategy to encourage the participation of applicants from diverse professional backgrounds. Organizations large and small use executive members of their staff on various levels, and there is often a significant wealth of knowledge to be found among candidates who have had successful careers as assistant city administrators, as department heads, and in other management positions.

6. Key Elements of the Application Process

The application process is the point where effective screening of candidates begins. For this part of the recruitment to be successful, the governing body must proceed carefully and with considerable thought. This section addresses issues such as whether to use a standardized application form; how to provide potential applicants with key information about the position and the local government; and the importance of establishing and maintaining good relations with applicants. High-quality applicants are more likely to pursue the vacancy if the local government can portray itself as a well-run, organized, and efficient organization.

The Application Form

Most local governments prefer to ask applicants to submit a résumé in whatever format the applicant determines will be most effective, rather than a standardized application form. For the applicant, this approach provides flexibility to present past work experience in a way that relates directly to the position in question. At the same time, it permits the local government to see how the applicant organizes and presents material in a written format. The manner in which materials are prepared can be an indication of real interest in the position.

A standardized application form is not recommended in recruitments for the governing body's top administrative professional. If one is used, however, it should be easy to complete, and the information requested should be relevant to the vacant position. Regardless of the form of application, the applicant should be required to submit a cover letter and résumé.

The Local Government Information Packet

Serious applicants will not submit a résumé for consideration until they have done their homework and have satisfied themselves that the position represents a good career opportunity. Often they will seek information from local government officials about the community, the organization, and the position.

This is one of the first contacts that will form an impression of the local government on the potential applicant. If the impression created is that the recruitment is well organized, that the local government officials know what they are looking for and are consistent in the message, and that sufficient information about the locality is easily obtained, potential applicants are more likely to form a positive image of the position and the governing body in deciding whether to apply.

Two critical elements of applicant relations are important to stress: keeping the candidates informed of the status of the process and maintaining confidentiality.

To help disseminate the same information to all applicants, the governing body could put together a packet of information that includes:

1. A copy of the outreach brochure or other documents that provide the criteria for the position, indicating key objectives and priorities and the administrator profile
2. Ordinance or charter requirements if they contain significant or unusual provisions regarding the position
3. Summary information about the local government, including organizational structure, personnel practices, number of employees, services provided, and budget data
4. Information about the community in the form of a chamber of commerce brochure or similar publication, if such is attractively prepared and available
5. Websites that contain information on the local government and community
6. The name, phone number, and e-mail address of a contact person.

Applicant Relations

Appendix E in this handbook provides some basic do's and don'ts regarding applicant relations and the recruitment process. The two key areas that are important to stress are candidate status notification and confidentiality.

There is no faster way to damage the image of the local government and to lose good applicants than to violate the trust or assurance that was given regarding confidentiality.

Candidate Status Notification As a rule, it is important to engage in the simple and courteous steps of acknowledging résumés as they are received and of notifying applicants of their status as the recruitment proceeds. Prompt acknowledgment of résumés is one indication that the process is being handled in a businesslike manner, and it can add to the applicant's positive impression of the organization. This acknowledgment also should inform the applicant of the recruitment timetable. Unless there are unusual or unanticipated delays, this response should be sufficient until applicants are actually notified as to their final status. To maintain confidentiality, all correspondence should be directed to the applicant's home, not business address.

Additionally, if special circumstances arise (such as a recall election) that might cause a delay in either the recruitment or the selection process, it is important to communicate any changes in the established schedule to all applicants.

Similarly, notifying all applicants as to their status, even if they are not selected as finalists, is a basic courtesy that will affect how the candidate views the local government.

Maintaining Confidentiality Confidentiality is an important consideration in any recruitment. Present job security and long-term career opportunities could be jeopardized if an applicant's interest in another position is made public prematurely. While applicants realize that the local government will want to contact their current employers to conduct background checks and assess their job performance, they typically prefer to wait until it is clear that they are going to be considered as finalists who will be invited to the second interviews for the position.

The governing body should determine, at the outset, the extent to which the recruitment process will be confidential. The governing body, in consultation with the local government's attorney, should decide the level of confidentiality due to the varying open record and disclosure statutes between the states. If applicants' names are likely to be disclosed at any point, potential applicants should be advised so that they may take it into account in deciding whether to pursue the vacancy.

From a recruiting standpoint, assurance of confidentiality will result in more applications being submitted, particularly from those who are currently employed elsewhere. As confidentiality is important to both parties, such assurances should be honored, and applicants should be given adequate time to notify their current employers before those employers are contacted by the recruiting local government.

7. The Role of the Media in the Recruitment Process

Members of the media will obviously have an interest in the recruitment process and their involvement will be dictated in part by state law and in part by tradition. At the outset, local government officials should brief the media on the timing and steps involved in the overall process. After the deadline has passed for submitting résumés, the governing body may decide to brief the media and the community on the overall response.

As the confidentiality of résumés is a major concern in any recruitment and can significantly affect the number and quality of résumés received, applicants should be apprised of any applicable state laws in this area, and the governing body, with advice from the local government's attorney, should determine what information will and will not be made available to the media.

8. The Selection Process

Once the deadline for submitting résumés has passed and all applications have been received, the selection process begins. Principal steps are as follows:

- Reviewing the applications
- Determining which candidates will be interviewed
- Interviewing the candidates
- Making the final selection.

Reviewing the Applications

The selection process begins with a review of the applications and résumés that have been submitted. Depending on how the governing body has chosen to conduct the recruitment, the participants involved in this initial review may be the body as a whole, the chief elected officer, a subcommittee of the governing body, the staff, or the executive recruitment firm. Alternatively, some local governments have used a panel of chief administrators from other local governments to serve as a screening panel. Regardless of who performs the screening, the objective of the initial review is to identify those candidates who best reflect the qualities, characteristics, experience, and areas of expertise that were defined in the administrator profile.

Major Decision Point: Determining the Candidates to Be Interviewed

The determination of the candidates to be interviewed is a significant decision point in the selection process. The objective here is to narrow the total group of applicants to a smaller group that will continue to the next step.

Initial Background Check After the group of applicants has been narrowed down to those who meet the qualifications described in the administrator profile, the list may be further refined by confirming educational credentials and conducting online checks. Such reviews should not violate the confidentiality of the applicant pool. For online checks, it is important to consider the source and avoid drawing hasty conclusions from these sources.

Selection of Candidates After the review of the résumés and the initial background check, the participants in this process should meet with the governing body as a whole to recommend which applicants should be invited to an interview. The chosen group of candidates should be large enough to expose the governing body to an array of personalities. In most cases, **five to ten candidates** should be selected. The governing body may also establish a secondary list of candidates who could be invited to the interview if one or more of the first group of candidates decline or are unable to continue with the process.

Informing the Candidates Once candidates have been selected, the governing body representative, the staff, or the executive recruiter should contact the each candidate by phone and do the following:

1. Inform the candidate that he or she has been selected to be interviewed and offer congratulations (the candidate should be made to feel that the governing body is pleased to have reviewed his or her résumé). At the same time, confirm the candidate's continuing interest in the position.
2. Advise the candidate of: the nature of the interview process, including date and time, number of other candidates, whether there are any in-house candidates, and when a decision is expected to be made. Indicate that all the details and information will be confirmed in a written correspondence. If email is to be used for this correspondence, confirm the candidate's email address.
3. As described in the section on applicant relations, the governing body should have already determined the extent to which the recruitment process will be confidential. At this point, the candidate should be advised if the names of candidates are to be made public and be given the opportunity to withdraw.
4. Confirm that the candidate has received the information package provided during the application process. Indicate that a supplemental package with more detailed information will be provided directly to the candidate's home in advance of the interview. The supplemental package may include:

- A list of governing body members and their occupations
- Copies of meeting minutes from the past several months
- The general or comprehensive plan and land use maps
- The most recent budget
- A recent bond prospectus
- Any other material that would be of particular relevance, given the goals and objectives of the local government and the criteria for the position.

As an alternative to a paper package of information, the candidates can be directed to the locality's website for such information.

5. Confirm local government policy on reimbursement of expenses incurred in conjunction with the interview. Many local governments reimburse candidates for all out-of-pocket expenses, including reasonable transportation, room, and board. ("Reasonable" is intended to eliminate first-class airline tickets, four-star hotels, and gourmet restaurants.)

Such reimbursement of expenses is another way that the local government can demonstrate its interest in the candidate. It reinforces the positive nature of the recruitment process and is sometimes a factor in whether the candidate is able to attend. Should there be strong reluctance on the part of the governing body to reimburse all expenses, the local government can share expenses with the candidate or can agree to reimburse all expenses incurred after the first trip.

The local government staff can offer to handle all reservations, transportation, and related matters, but this can be cumbersome and time-consuming. In most cases, the local government confirms the time and place and lets the candidate make his or her own arrangements. The candidates usually prefer this approach as well.

Interviewing the Candidates

Most local governments use the interview approach for selecting the chief administrator. In this approach, the governing body will meet as a whole with each individual candidate. As the initial interview is usually limited to an hour, a second interview with one or more of the finalists is generally incorporated into the process.

Initial Interview The following provides important guidelines for conducting the initial interview.

Structure of the Interview The interview process should be well organized in a comfortable setting for both parties that invites open and relaxed discussions. This element of the process is generally not considered a public meeting, although the governing body, staff, or executive recruiter should consult with the city's legal advisor to ensure that all requisite notices are sent and other legal requirements are met.

All members of the governing body should participate in the interview with one member, usually the chair, designated as the discussion leader. This interview should last at least an hour as it is difficult to pursue a range of questions in less time. Further, all candidates anticipate and deserve an opportunity to present their qualifications to the governing body and describe their interest in the position. It is important to realize that the interview process not only provides the governing body with an opportunity to improve its knowledge of the candidate but also influences the candidate's interest in the position.

As part of the initial interview, the governing body may want to include a comprehensive tour of the community. A trusted senior staff person would be a likely tour guide.

Content of the Interview Questions During the first interview, the governing body will question the candidate about a variety of matters, such as overall work experience, specific accomplishments, career objectives, alternative approaches to practical problems faced by the local government, and similar matters. A list of potential questions is provided in Appendix D.

The interview also gives the candidate an opportunity to evaluate the governing body as a group and to ask questions. An important issue to discuss during the interview is the governing body's working relationship with the administrator, clarifying all roles and responsibilities.

During the formal and any informal meetings between the governing body and the candidates, discussions and questions should focus on the criteria for the position that were established at the outset of the recruiting process. Obviously, discussions should stay within acceptable legal parameters and should not include references to politics, religion, age, racial origin, and sexual preferences.

When the initial interview process is over, the governing body should avoid impulsive action but rather take whatever time is necessary to arrive at a comfortable and well-reasoned decision. At this point, either one person has emerged as the clear choice of the

governing body; or, more likely, the pool of candidates has been narrowed down to two or three individuals that the governing body would like to further pursue. In most cases, the process will involve a second interview of this smaller group of finalists. However, if there is one clear choice, please refer to the section entitled "Making the Final Selection."

Second Interview If, after the initial interview, there are two or three candidates that the governing body would like to further consider, a couple of options exist for setting up a second interview:

1. The governing body may invite the finalists back for a second, more in-depth interview, coupled perhaps with some sort of community function. This arrangement often provides the governing body with the insight needed to make a final decision.
2. The governing body may invite the finalists back for a second, more in-depth interview, coupled with an opportunity for community leaders and/or staff to provide input into the selection of the chief administrator.

In either case, finalists should be notified of their status, congratulated for being among the select few who will be further considered, informed of the process, and asked for permission for the governing body to conduct reference checks.

Reference Checks As the governing body is now deciding between two or three qualified candidates, it is important at this point to conduct reference checks that provide additional information on which to base the decision. References should be checked to learn about each finalist's ability to work effectively with people, to develop a more complete understanding of the finalist's work experience and specific accomplishments, and to see if the finalist's qualifications match the profile for the position. The following suggestions are important for ensuring consistency and thoroughness when conducting reference checks:

- The reference checks may be performed by members of the governing body, staff, or executive recruitment firm. In general, however, it is advisable to limit the number of people performing the checks to one or two. It may be difficult, depending on the number of candidates, to have one person perform all the reference checks, especially if there are three references for each candidate. Further, it can be helpful if two people compare notes on the same candidates.
- Be consistent in discussing issues with and asking questions of each candidate in order to provide a good basis for comparison.
- Contact enough people to ensure a consistent reading as to the candidate's strengths and weaknesses. If a reference can say only good things about the candidate, he or she should be asked directly what weaknesses the candidate has.

Decision Point: Inviting the Candidate's Spouse/Partner While the focus of the recruitment is on the chief administrator, the governing body may formally invite the candidate's spouse/partner to the community during the interview process. Generally, this type of invitation occurs only after the first interview process has narrowed the group of candidates down to the top two or three. The spouse/partner should never be included in the formal interview process, nor made to feel as if he or she is being interrogated in any way.

If the governing body formally invites the spouse/partner to accompany the candidate, it is important that this part of the process be as well organized as all the other parts that concern the candidate directly. Here, too, an important impression about the community is being made. The interests of the spouse/partner should be carefully determined and accommodated.

On the other hand, the governing body may use an informal, non-structured approach to the involvement of the spouse/partner. Understanding that a candidate may bring his or her spouse/partner along to explore the community as a possible future home, the governing body may consider having a packet of relevant community information available.

Decision Point: Community Involvement The governing body must decide whether to involve community members or committees in the interview process. In most cases, the local government assumes responsibility for the interviews and conducts the process of selecting the new chief administrator without the involvement of members of the community.

In some cases, however, governing bodies have chosen to supplement the usual discussion between members and finalists by inviting community leaders to participate. For example, finalists may meet with selected community leaders to answer questions and receive their input on matters they consider important to the local government. If this option is taken, the purpose of the meeting should be made clear to all involved. Both the finalist and the community members should know whether these meetings are intended simply to provide the

finalist with additional information on the local government or whether the community group will also be involved in the actual selection process. In the latter case, although the input from the community will be valuable, it should be made clear that the governing body will make the final selection based upon a variety of factors.

Decision Point: Staff Involvement The governing body must also decide whether to involve staff members in the interview process. It may choose to supplement the usual discussion between members and finalists by inviting staff members to participate. For example, finalists may meet with selected department directors to answer questions and review departmental operations in more detail.

If this option is taken, its purpose should be made clear to all involved. Both the finalist and the staff members should know whether these meetings are intended simply to provide the finalist with additional information on the local government or whether the group will also be involved in the selection process. In the latter case, although the input from the staff will be valuable, it should be made clear that the governing body will make the final selection based upon a variety of factors.

Major Decision Point: Making the Final Selection

After the second interviews, there should be one person who is the clear first choice of the majority, if not all, of the governing body. It is important to both the governing body and the potential new hire that the decision be unanimous, if possible. A unanimous vote from the governing body demonstrates a commitment of support to the new chief administrator and sends a positive message to both the organization and the community. If the governing body is divided on the appointment and the decision is not unanimous, however, the chosen finalist should be advised of this prior to accepting the position.

Once the selection has been made, the governing body, staff, or executive recruiter should contact the finalist, confirm his or her willingness to accept the position, and obtain permission to conduct a very thorough background check, which will be performed by an outside party. This process includes interviews with individuals in the candidate's current community, an investigation into possible criminal history, and a credit check, which requires the candidate's consent.

It is important that the vote for the new chief administrator be unanimous, if possible. This sends a positive message to the organization and the community.

Another element of this final selection process may include some or all of the members of the governing body making an on-site visit to the finalist's current community. Often finalists insist that an agreement regarding terms and conditions of employment be agreed upon before being open to a site visit.

Once the governing body is satisfied with the results of that process, it may inform the finalist and move ahead to put together a total compensation package and discuss other related arrangements. However, if the governing body is unable to satisfactorily conclude negotiations with its first choice, it may need to engage in discussions with one of the other finalists. Thus, it should refrain from notifying the other finalists until all arrangements have been finalized with the first-choice candidate.

From a public image standpoint, it is imperative that all candidates learn about the final selection from the governing body or its representative, as opposed to hearing about it from a third party or reading about it online or in a newsletter or professional publication. A representative from the governing body, staff, or executive recruitment firm should personally contact the runners-up prior to or at the same time that a news release about the appointment is issued.

9. The Negotiation Process

Once the local government has made its decision and the finalist has indicated a willingness to serve as the chief administrator, a number of final arrangements must be completed. These include negotiating a compensation package and completing transition activities. Only after these arrangements are concluded can the new chief administrator relocate and begin work for the community.

Preparation for Negotiation

The governing body needs to ensure that relations with the new administrator get off to a good start. At this point, nothing should happen that causes the new administrator to reconsider.

It is important that the governing body identify a single individual to act as the negotiator for the local government. Depending on the approach that the governing body has selected, the negotiator may be a member of the governing body; a member of the staff, such as the interim chief administrator or the municipal attorney; or the executive recruiter. The following are important guidelines regarding the structure of the negotiations:

1. The atmosphere should be friendly and relaxed.
2. The negotiator should be flexible. Negotiating implies a willingness to consider options and alternatives in pursuit of an acceptable package. There may well be more than one way to meet the financial objectives of the new administrator.
3. The governing body should be realistic. No matter how beautiful and desirable the community or position may be, the finalist is unlikely to accept the new position without an increase in pay over his or her present salary.

Major Decision Point: Negotiating Compensation

In compensation negotiations, base salary is a good place to start. The ICMA Compensation Guidelines, which are provided in Appendix B, are a good source of information to help with this part of the process. The person conducting the negotiation on behalf of the local government should keep the following questions in mind:

The governing body should rely on a single individual to handle its part of the negotiation process. The process should be friendly and relaxed; the negotiator should be flexible; and the governing body should be realistic in its guidelines to the negotiator.

1. Ultimately, what salary will be acceptable to the governing body?
2. What is the bargaining range?
3. What is the current salary of the applicant?
4. What type of salary and total compensation package did the candidate discuss during the interview?

ICMA, the National Association of Counties, and state leagues of cities and counties are sources of information on the salaries of local government administrators around the country. Prior to initiating negotiations, the governing body should compare its salary range with that of other governing bodies in same region of the country.

Elements of Total Compensation Elements of a total compensation package typically include:

- Base salary
- Deferred compensation
- Severance pay
- Use of government car or car allowance
- Use of technology or technology allowance
- Retirement plan
- Medical and other insurance (dental, optical, life, disability)
- Vacation accrual
- Holidays
- Sick leave accrual
- Membership dues, conference, and professional development attendance fees.

Before the negotiation begins, the governing body should ask the candidate to provide a written itemization of his or her current total compensation. After receiving this information, the person negotiating on behalf of the governing body should outline a proposed package and provide it to the candidate. Usually there will be no negotiation on those benefits that are similar among local governments, such as medical insurance and holidays. The variables most often relate to base salary and particular financial objectives, such as deferred compensation, health insurance, and requirements to join a state retirement system.

The proposed compensation package should (1) leave the individual whole on basic benefits, (2) provide an appropriate step forward in cash-related benefits, (3) ensure an increase in take-home pay, and (4) deal with any particular financial objectives that the new administrator may have.

Noncompensation Elements During the negotiations, some issues will arise that do not relate to the total compensation package but may well have significant financial implications for both the local government and the new administrator. Both parties need to be flexible and realistic in dealing with these issues:

- **Relocation expenses:** It is common for local governments to pay the one-time cost of relocating the administrator and his or her family and household furnishings to the new local government. Sometimes both parties agree on a "not-to-exceed" figure based on estimates from moving companies.
- **Temporary housing:** An allowance for temporary housing is usually provided until the new administrator is able to sell his or her former home and/or relocate his or her family. Typically, this amount is sufficient to cover the cost of a modern furnished apartment or condominium. Again, both parties may agree to a fixed time period or amount.
- **Commuting expenses:** As with temporary housing, the local government often will agree to reimburse the administrator for periodic family visits or for the spouse/partner to visit for house-hunting purposes.
- **Housing assistance:** Regional variations in the cost of housing or housing financing can complicate the negotiations. There is considerable precedent for local governments—using appropriate safeguards and limits—to assist in the purchase and/or financing of housing for the new administrator. A variety of options exist, including a loan or a salary supplement.

Employment Agreements It is in the interests of both the community and the chief administrator to have a written summary of the terms and conditions of employment to which both parties have agreed. The stable working situation created by such an agreement helps to attract and keep top-flight administrators in a generally mobile profession. ICMA recommends the use of employment agreements because the detailing of salary, benefits, and other conditions of the administrator's job puts those items where they belong—in a contract where both parties can know what is expected—and removes them from the daily agenda of the chief administrator and members of the governing body.

While such an agreement usually does not refer to a specific term of employment and permits either the governing body or the chief administrator to terminate for cause or at will, it should include a section providing the administrator with severance pay for a fixed period of time if he or she is terminated. This provides important personal and professional security for local government chief administrators, as they have the rather unique situation of working at the pleasure of the governing body with the possibility of dismissal for any reason at any time.

While not a lengthy legal document, the employment agreement is usually drafted by the local government's attorney. The new administrator is often given an opportunity to prepare a first draft for consideration. If an employment agreement is not used, a formal letter of understanding, at a minimum, should be prepared.

As a final note on this process, the governing body should be prepared for the possibility that it will be unable to reach agreement on compensation or other matters with the first-choice candidate. In these instances, the governing body typically enters into negotiations with its second-choice candidate. As indicated previously, once an agreement has been finalized, all other candidates should be promptly notified that they were not selected.

10. The Transition Process

After the governing body and new chief administrator have reached agreement on the issues of compensation, starting date, and method and timing of announcing the selection to both the community and the administrator's former local government, the transition process begins.

Announcing the Selection

The announcement of the selection should be well planned and coordinated between the governing body and new chief administrator. Two factors should precede any formal announcement of the appointment:

- The successful candidate has formally accepted the position and the negotiations have been concluded; and
- The successful candidate has been given the opportunity to notify his or her current governing body about the appointment.

This public announcement should be coordinated carefully to recognize the instantaneous nature of electronic communication.

Additional Elements

Additional elements that the governing body may employ to ensure a smooth transition for the new chief administrator are as follows:

- **General assistance:** For a smooth transition, the local government should offer whatever general assistance the new administrator might need in moving, such as introductions to realtors and bankers and support to the spouse/partner in finding suitable employment.
- **Orientation meetings:** The governing body should arrange to introduce the new chief administrator to department heads and local government staff. While the new administrator may have met some of these individuals during the interview process, a special meeting or reception can be a pleasant way to turn over responsibility. Similar meetings, briefing sessions, and/or receptions can be arranged to introduce the new administrator and his or her family to community groups, civic leaders, and residents in general.
- **Local government work session, orientation, and review of objectives:** It is desirable to have an initial work session with the new administrator to discuss and clarify initial expectations on both sides and to review goals and objectives. Even though some of these issues may have been raised during the interview process, communication from the outset can help ensure a smooth working relationship.
- **Performance evaluation:** Using the position's goals and objectives as a starting point, the governing body and new chief administrator should agree to an annual or semiannual review of the administrator's performance. This established and formal process helps to ensure that communication between the parties is maintained, that progress is monitored, and that goals and objectives are reviewed and refined on a regular basis.

11. Conclusion

Choosing a chief administrator can be the most significant action of the governing body. The chief administrator is a leader, coach, and chief of strategy for the staff team whose job it is to implement a vision, policy, and procedures; accomplish goals; and achieve the desired output of the organization. Similar to a chief executive officer of a Fortune 500 company, the chief administrator is also responsible for serving an elected governing body, managing the financial aspects of the organization, directing the employees, ensuring quality customer service, and implementing legal and ethical standards. Furthermore, unique to public agencies, the chief administrator oversees an organization that is focused on providing a variety of services to the community rather than on making a profit.

In addition to a very diversified portfolio of services that must be provided and interests that must be served fairly, the chief administrator is responsible for an organization that must balance its budget; provide for and encourage public input into decision making; and understand, respect, and appreciate the political environment. In summary, the position of chief administrator requires a variety of skill sets—not every person is capable of performing the role. Therefore, selecting the right person for the job is critical for the governing body and for the community.

This guidebook addresses a number of factors to consider in recruiting, selecting, negotiating, and hiring a professional local government manager. In doing so, it elaborates on the "best practices" for identifying the appropriate skills and background of a chief administrator, noting that the governing body must identify the qualities, characteristics, experience, and areas of expertise that would be found in the ideal candidate. Throughout the entire process, clear communication to staff, the community, and the media is essential for achieving the governing body's goals. In the end, the process of recruiting and selecting a chief administrator should be a positive and unifying experience, resulting in the appointment of an individual who represents and embodies the governing body's vision for the future.

ICMA and its members are resources available for providing guidance and recommendations in the recruitment of a chief administrator. With this document, we hope we have provided a basic understanding of the process involved in selecting a professional local government manager who meets the needs of the community.



Hiring a Professional Manager

ICMA Guidelines for Compensation

Life, Well Run

ICMA

Guidelines for Compensation

Leaders at the Core of Better Communities

ICMA
Guidelines for Compensation

Maintaining public trust and integrity in local government requires both effective governance and management of the organization. The following guidelines are intended to establish a best practice for establishing and negotiating compensation for local government executives and staff and to clarify the roles and responsibilities of the governing body, local government manager, and employee.

The Principles

Compensation and personnel matters should be guided by the core principles of the ICMA Code of Ethics. ICMA affirms that the standard practice for establishing the compensation of local government managers be fair, reasonable, transparent, and based on comparable public salaries nationally and regionally. ICMA members should act with integrity in all personal and professional matters in order to merit the trust of elected officials, the public and employees. Local government managers have an ethical responsibility to be clear about what is being requested and to avoid excessive compensation.

Elected officials perform a critical governance role providing oversight of the management of the organization. To that end, they must be engaged in establishing the process for determining and compensation for all executives appointed by the governing body.

Compensation should be based on the position requirements, the complexity of the job reflected in the composition of the organization and community, the leadership needed, labor market conditions, cost of living in the community, and the organization's ability to pay.

The Process for Negotiating Executive Compensation

To establish fair and reasonable compensation, the governing body should either operate as a committee of the whole or designate an evaluation and compensation subcommittee, to design and implement the methodology for setting the compensation of the local government manager and any other appointees of the governing body.

Compensation benchmarks should be established based on comparable local government and/or public sector agencies.

The governing body should engage experts whether contracted or in house as necessary to provide the information required to establish fair and reasonable compensation levels.

All decisions on compensation and benefits must be made by the entire governing body in a public meeting.

Compensation Guidelines for Local Government Executives

A starting point for the elected officials and local government manager in any salary negotiation should be to:

1. Determine the requirements of the job and the experience needed to successfully perform the job duties.

2. Examine market conditions to learn what comparable public sector executives earn. A best practice would be to gather information using pre-determined comparable benchmark local governments or public sector agencies.
3. Understand the services provided by the local government along with the nature of the current issues in the organization and in the community, and then compare these with the individual's expertise and proven ability to resolve those issues.
4. Identify the local government's current financial position, its ability to pay, and the existing policies toward compensation relative to market conditions.

In addition:

5. The individual's credentials, experience and expertise may be used as factors to set salary.
6. In areas where cost of living is high and the governing body wants the manager to reside within the community, salary negotiations may take into account additional compensation. In addition, other unique and special circumstances may be taken into consideration, such as difficult recruitment markets and the particularly challenging needs of the public agency.
7. During periods prior to the beginning of employment when terms and conditions are being negotiated and finalized, each party should also seek legal advice as needed and appropriate.

Severance

Severance provisions established in the employment agreement must be both reasonable and affordable so that the cost of the severance is not an impediment to fulfilling the governing body's right to terminate a manager's service, if desired. The ICMA Model Employment agreement recommends a one year severance but recognizes that the length of service with an organization may justify a higher severance.

Compensation changes

1. Benefits and salary increases should be reasonably comparable to those that local government executives receive within the designated benchmark or regional market area and generally consistent with other employees.
2. Merit adjustments or bonuses should be contingent upon performance and the overall financial position of the local government to afford additional compensation payments. Provisions regarding consideration of periodic merit adjustments in salary should be pre-determined.
3. Local government managers must recognize and effectively manage conflicts of interest inherent in compensation changes. Managers should avoid taking steps regarding pension and other benefits where they will be the sole or primary beneficiary of the change. Examples include:
   - Dramatically increasing salary thereby leading to pension spiking.
   - Recommending or implementing single highest year to determine retirement benefits.
4. An individual should receive a single salary that recognizes all duties and responsibilities assigned rather than different salaries for different assignments.
5. Local government managers should not put their personal compensation interests before the good of the overall organization and that of the citizens.

Transparency

1. Local government managers should provide their total compensation package to the governing body when requesting compensation changes so that the governing body has a comprehensive view of the compensation package.
2. In the interest of fairness and transparency, there should be full disclosure to the governing body, prior to formal consideration and approval, of the potential cost of any benefit changes negotiated during employment.
3. When the terms and conditions of employment are being renegotiated with the employer and at the end when the employment is being terminated, ICMA members have a duty to advise the elected officials to seek legal advice.
4. In the interests of transparency, the salary plan and salary ranges for local government positions, including that of the manager, should be publicly accessible on the agency's website.

General Compensation Guidelines for all Employees

1. Each local government should establish benchmark agencies which are determined using set criteria, such as, but not limited to:
   - Close geographic proximity
   - Similarity with regard to the nature of the services provided
   - Similarity in employer size/population size
   - Similarity in the socio-economic makeup of the population
   - Other similar employers in the immediate area
2. The local government should develop appropriate compensation levels that are in line with their labor market. Doing so will enable the organization to establish and maintain a reputation as a competitive, fair, and equitable employer as well as a good steward of public funds.
3. When considering any salary or benefit changes, the immediate and anticipated long-term financial resources of the organization always should be taken into account.
4. Appropriate financial practices should be followed to both disclose and properly fund any related future liability to the local government.

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12-071



Hiring a Professional Manager

Determining the Value of Professional Administrator or Manager

Life, Well Run

QUESTIONNAIRE TO HELP DETERMINE WHETHER A PAID PROFESSIONAL ADMINISTRATOR/MANAGER SHOULD BE RETAINED:

Cost-Benefit Analysis

$_____ What is the approximate value of grants, loans, and other outside intergovernmental revenues that may have been or are currently available, but which the city leaders have not been able to pursue because they do not have the expertise to apply and/or lobby for them?

$_____ How much is paid to outside planners and/or engineers to perform routine or non technical tasks (meeting with citizens, writing grants or letters to developers, managing contracts and projects, supervising bidding, etc.)?

$_____ To what extent would the city's annual legal service fees be reduced if there was a professional administrator/manager employed by the city?

$_____ Has the city ever had to pay a fine or penalty to a state agency because it has not made timely submission of a report, permit or other document? If so, what was the dollar value?

$_____ What is the differential cost between professional service contract fees (by % of base service) negotiated by the city, compared to similar contracts negotiated by management professionals in nearby communities?

$_____ Has the city ever had to pay a financial settlement to a former employee because his/her involuntary termination was not handled properly or because they made an allegation of discrimination and the city did not have proper policies in place to respond? If so, what was the dollar value?

$_____ Has the city ever received an adverse or "qualified" opinion from its outside auditor based on incomplete accounting practices or the condition of its financial records? If so, the auditor can identify the cost of these shortcomings to the city and estimate the auditing fee added to sort out the problem(s) and reorganize records.

Lost Opportunity Analysis

_____ Have there been development projects, land use planning decisions (to limit or encourage growth comprehensively or reactively on a site-by-site basis), construction project planning, opportunities for intergovernmental cooperation, etc. which have proceeded (or not proceeded) because the community did not have the technical expertise, the negotiation skills, or the ability to foresee positive or negative impacts?

_____ Are there any areas of technical expertise that council members believe the city lacks, and that it has not been able to obtain at reasonable expense through its staff, elected

officials, and community volunteers? E.g., does the council have a plan for funding mandated infrastructure?

Process Analysis

_____ In the opinion of the City Council and/or citizens, is the organization's response(s) to problems, opportunities, requests, and complaints timely?

_____ Is vital information communicated to all the members of the governing body so that they have the whole story and understand the "big picture"?

_____ Is there one person charged with making sure that actions of one department are consistent and compatible with those of another department? Is this communication effective and in accordance with the governing body's general directions?

_____ Are proper risk assessments ever delayed because staff or elected officials are uncertain about how to assess and/or manage risk?

_____ Does the City Council believe that its directives are being implemented in a timely manner by the parties responsible for their enactment?

_____ Does the city budget realistically account for the costs of future needs?

_____ Does the City Council believe it spends too much time at council and/or committee meetings discussing small details and technical issues, rather than policy, contracts, planning, and general community improvement?

Political (public perception & council motives) Analysis

_____ Are council members perceived by the public as leading or reacting?

_____ Are form-of-government discussions motivated more by a desire to increase the separation of powers between elected officials and the staff or by a desire to more effectively use power?

_____ Is the city's current organizational structure advancing the governing body's short and long term goals and objectives or is it a barrier to their implementation? (Focus on form and structure, not on individuals.)

_____ If the answers to the questions above (cost-benefit, loss opportunity and process analyses) were objectively set before local citizens, would a majority support changing to a manager/administrator form of government?

- Prepared by Scot Wrighton for the Georgia city/County Management Association



Hiring a Professional Manager

Sample: Chief Administrator Job Descriptions

Life, Well Run

Sample Job Descriptions: Chief Administrative Officer

City Administrator

JOB SUMMARY:
Plans, directs, manages and oversees the activities and operation of the City organization including: water, wastewater collection and treatment, gas and electric utilities, police services, finance, streets and storm drainage, code enforcement, airport, parks including historic areas, library and contracted services for solid waste collection.

ESSENTIAL JOB FUNCTIONS:
The fundamental duties and tasks that define the job are:

- Performs high level administrative, technical and professional work in directing and supervising the administration of the day-to-day management of the City in accordance with policy established by the City Council, City, state and Federal laws, regulations and guidelines.
- Monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; assesses and monitors workload, administrative and support systems, and internal reporting relationships; identifies opportunities for improvement and directs the implementation of changes.
- Represents the City and meets and confers with citizens, business entities, elected officials and outside agencies to discuss City policies, procedures and remedy problems and resolve inquires and complaints from both internal and external sources; and negotiates and resolves sensitive, significant and controversial issues.
- Manages the development and implementation of City/departmental goals, objectives, policies and priorities within City policy, appropriate service and staffing levels and allocates resources accordingly.
- Manages the development and administration of the City budget, revenue and expenditure forecasts of funds needed for staffing, equipment, materials and supplies; directs and approves expenditures in accordance with City policy; and directs the preparation and implementation of budgetary adjustments as necessary.
- Stays abreast of new trends and innovation in the field of public management and administration.
- Advises the City Council on matters of policy and maintains weekly, and more frequent if necessary, written communication with Council.
- Reviews and analyzes reports, legislation, court cases and related matters and directs or personally conducts studies, research and investigation on a wide variety of administrative and technical areas.
- Prepares and recommends long-range plans for City service programs and develops specific proposals for action on current and future City needs.

Sample Job Descriptions: Chief Administrative Officer

JOB REQUIREMENTS:
EDUCATION AND EXPERIENCE:

- Bachelor's degree in public administration, political science, business management or a closely related field from an accredited college or university
- 5 years of experience as City Manager, Assistant City Manager and/or executive experience; or an equivalent combination of education and experience.

SKILLS, KNOWLEDGE AND ABILITIES: Utilized in the performance of the essential functions of the job.

- Knowledge of operational characteristics, services and activities of municipal administration and organization
- Knowledge of modern policies and practices of public administration; working knowledge of municipal finance, public works, public safety, community development, human resources, economic development and airport Knowledge of and skill in advanced principles and practices used municipal budget preparation and administration
- Skill in preparing and administering municipal budgets and programs
- Knowledge of pertinent Federal, State and local laws, ordinances, statutes and regulations
- Ability to develop, implement and administer goals, objectives and procedures for providing effective and efficient services for the City
- Ability to analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendation in support of established goals
- Ability to identify and respond to community and City Council issues, concerns and needs
- Ability to communicate effectively with diverse groups of individuals using tack and diplomacy

LICENSE REQUIRED:

- Must possess a valid Texas Driver's License and have a satisfactory driving record, or ability to obtain a driver's license within 30 days of commencing employment.

PREFERRED QUALIFICATIONS:

- Master's Degree in Public Administration
- Extensive senior level experience as a City/County Manager/Administrator, Assistant City Manager/Administrator, Department Head or similar position
- Familiarity with Texas laws and programs
- Knowledge of and/or experience managing:
    - Water and Wastewater Functions

Sample Job Descriptions: Chief Administrative Officer

- Gas and Electric Utilities
- Airport Operations
- Capital Improvement Programs
- Economic Development
- Historic Preservation Programs

Sample Job Descriptions: Chief Administrative Officer

City Manager

The City Manager is appointed by the Mayor and City Council and oversees the operation, programs, and personnel of all City departments. The City Manager develops and issues administrative rules and procedures necessary to ensure proper functions of all departments and all duties and responsibilities granted by federal and state law and the city code. The City Manager is the chief administrative officer for the City and is responsible for implementation of City Council direction. Twenty-seven full-time, seven part-time, and seven seasonal staff, are employed by the City of Mound. Five departments report to the Manager, including Finance & Administration, Community Development, Public Works, Liquor, and Fire. Several consultants also serve the City including finance, legal counsel, assessing, planning, and engineering. The 2016 proposed operating budget for the general fund is $5,368,219. The City Manager oversees the following departments:

Finance and Administration:
Accounting, investing, IT, risk management, reporting, budgeting, capital planning, audits, human resources, payroll, accounts payable, utility billing, public housing, elections, official records, licensing, legal publications, assessments, and dock administration.

Fire:
Firefighting/EMS, hazardous materials, MCI, technical rescue, inspections, and emergency preparedness.

Municipal Liquor Operations:
Consists of one off-sale retail store

Community Development:
Planning and zoning administration, building code, inspections, subdivisions, redevelopment, and community development

Public Works: parks, docks, city hall, facilities, streets and grounds maintenance, water, sewer, storm sewer, and recycling enterprises.

Duties and Responsibilities of the City Manager:

- Coordinates activities of the City Council including preparation of agendas, packets, and reports

Sample Job Descriptions: Chief Administrative Officer

- Works with City Commissions, presents recommendations concerning policies, objectives, and specific actions
- Ensures an effective municipal organization, including recommending changes in organizational structure as appropriate
- Establishes goals & objectives for department heads, prepares work plans, assigns work, delegates authority/responsibility
- Creates, establishes, and monitors City policies and procedures, ordinances and resolutions
- Responsible for effective management and use of City assets, including effective investment of available funds, proper accounting practices to control financial assets, and providing for financial planning
- Prepares and presents the annual operating budget and capital improvement budget
- Authorizes purchases and expenditures
- Provides professional support to the City Council by attending meetings to report on City affairs, presents recommendations concerning policies and objectives, as well as specific actions, participates in discussion, and implements council decisions
- Attends all City Council meetings and other public meetings as needed, ensures council decisions are implemented
- Ensures proper public relations by following-up with all departments to ensure public services are efficiently provided and that all complaints, concerns, and public contacts are effectively handled
- Assists with legal activities such as monitoring, drafting legislation, and coordinating with the City Attorney
- Stays current with developments in both the public administration and organizational development fields, and cooperates with other governmental units and municipalities on matters of mutual interest
- Oversees the work of financial, engineering, legal, and other consultants
- Maintains effective relationships with school district, businesses, community organizations, residents, and other key stakeholders, representing the City of Mound in a positive manner
- Manages and administers personnel policies and programs, including compensation practices, labor/employee relations, contract negotiations, and staff recruitment
- Performs overall employee management including evaluation systems and compensation adjustments per City Council approved budget guidelines
- Responsible for the completion of employee performance evaluations in conformity with City guidelines and timelines
- Responsible for the hiring, directing, development, and discipline of employees

Sample Job Descriptions: Chief Administrative Officer

- Resolves employee problems, addresses complaints, and sets the organizational culture
- Ensures the proper execution and oversight of City contracts
- Stays abreast of legislative issues, specifically those affecting local government
- Oversees enforcement and recommends changes to ordinances and resolutions

The Ideal Candidate:

The ideal candidate is an experienced and personable City Manager or Administrator with demonstrated leadership skills and strong customer service skills.

Other desired skills and character traits include:

- Trustworthy, ethical, respectful, and approachable leader who listens carefully and thoughtfully to others
- Builds trusting relationships with Council, staff, and community
- Prioritizes work, meets deadlines and manages multiple tasks
- Embraces the community and proactively engages with the public and community groups while participating in activities
- Effective oral and written communicator, including public presentations
- Effective with creating partnerships with businesses, civic groups, and outside governments and organizations
- Promotes staff leadership and development, by encouraging creativity, ownership, and skill development
- Strategic thinker
- Big-picture budgeting experience with thorough knowledge of financial government management, including public financing techniques (TIF, bonds, grants, CIP)
- Project management experience, with attention to detail
- Knowledgeable in infrastructure repair and replacement, downtown development/redevelopment and business, labor and other negotiations

Sample Job Descriptions: Chief Administrative Officer

City Administrator

The Position

The City Administrator is responsible for managing the operations of the city and reports directly to the City Council as set forth in by the City Charter. The City Administrator directs, supervises and coordinates the work of Safety Services, Public Services, Community Services, Financial and Administrative Services, Human Resources Services, Communications, the City Clerk and additional services as the Council may, from time to time, designate. The City Administrator leads strategic planning, goal setting and policy development in support of the City's Guiding Principles and Goals. The City Administrator is responsible for creating and sustaining the City of Ann Arbor as a results-oriented organization through expertise in organizational effectiveness, performance, measurement and budget accountability.

Additional duties and responsibilities are as follows:

- Plan, coordinate and administer programs, inter-service area projects, contracts, events and studies.
- Plan, administer and evaluate management programs and policies related to the City Administrator's office.
- Lead, direct and supervise the City's Service Areas and direct reports.
- Lead the budget process and assemble the budgets as prepared by the Service Areas and present the same to the Council, with the recommendations, in accordance with the applicable provisions of the City Charter.
- Working with the various Service Area Administrators, establish reporting procedures to ensure timely knowledge of the Service Areas businesses, including periodic or special reports as he/she or the Council may deem necessary.
- In case of conflict of authority between administrative units, or in case of absence of administrative authority occasioned by inadequacy of Charter or ordinance provisions, resolve the conflict or supply the necessary authority, so far as may be consistent with law, the Charter, and the ordinances of the city, and direct the necessary action to be taken, making a full report immediately to the Council of the problem, action taken and recommendation for corrective legislation.
- Attend all meetings of the Council, with the right to take part in all discussions, but without the right to vote.
- Recommend to the Council, from time to time, such measures as he/she deems necessary or appropriate for the improvement of the City or its services.

Sample Job Descriptions: Chief Administrative Officer

- Furnish the Council with information respecting the City's affairs and prepare and submit such reports as may be required, including an annual report which shall consolidate the reports of the several administrative units.
- Possess such further powers and perform such additional duties as may be granted to or required of him/her, from time to time, by the Council, so far as may be consistent with state law and the City Charter.

Related Work:

- Oversee various studies and analyses; coordinate and assemble the findings and recommendations of the Service Area Administrators related to various systems, programs, procedures and administrative practices.
- Provide leadership on issues of organizational culture, communication and community relations.
- Collaborate with Human Resources Services to determine leadership development needs and to design and sponsor leadership development programming for the city.
- Perform other duties as assigned.

Knowledge of:

- Functions of City Council and City government and associated Boards and Commissions
- Public Sector collective bargaining environments
- Multi-cultural environments where issues are openly debated
- Principles and best practices of financial management, municipal organizations, public administration, leadership development, executive coaching and change management
- Principles and techniques of public relations
- Outstanding customer service principles and practices
- Large multi-service organizations with full development and administration of budgets
- Contemporary management principles and supervisory practices
- Pertinent City, County, State and Federal laws, regulations and ordinances

Skills and Abilities:

- Supervise a large multi-service organization, including development and administration of the budget and associated city goals and objectives
- Develop and sustain positive working relationships with senior University of Michigan administrative personnel

Sample Job Descriptions: Chief Administrative Officer

- Demonstrate successful working relationships in a partisan political environment
- Demonstrate excellent communication skills including advanced techniques in facilitating communication among various city components and constituencies
- Engender trust and demonstrate advanced interpersonal skills
- Demonstrate team leadership by guiding collaborative efforts, direction and focus, while delegating authority appropriately
- Take strong initiative and lead innovation, and implement city initiatives effectively
- Lead an organization without need of personal recognition or ego gratification
- Develop strong professional staff, provide feedback, guidance and opportunities for development
- Work with Council in an honest, forthright manner while maintaining focus on the goals and objectives of the organization
- Provide leadership to the Council and also accept direction from the Council
- Accept criticism in a mature manner and not be unduly influenced by special interests or factions
- Demonstrate a strong sense of personal values and listen and process different viewpoints calmly and rationally
- Demonstrate organizational awareness by understanding and championing the identities and respective roles of the Administrator, City Service Areas, Mayor and Council, Boards and Commissions, community organizations and citizens
- Demonstrate personal confidence and work directly with all elements of the community, including the business community, special interest advocacy groups, neighborhood associations and minority groups

The Ideal Candidate
The ideal candidate will have:

- Extensive experience in public sector management, preferably as a City Administrator or City Manager in a city with a population of over 50,000, or as a County Administrator in an urban setting which has a wide diversity of cultural, political, and service issues
- Experience must include direct responsibility for management and supervision of a large multi-service organization with full responsibility for development and administration of the budget
- Experience with a major university, and prior experience with developing positive working relationships with senior university administration personnel would be a definite asset

Sample Job Descriptions: Chief Administrative Officer

- Candidate must have experience in a multi-cultural and politically active environment where issues are openly debated. A background that includes serving in positions that required active community contact and open communications between citizens, council, and staff is necessary

Education:

Interested candidates should possess a Bachelor's Degree from an accredited college or university in Public or Business Administration or related field; a Master's degree is preferred.



Hiring a Professional Manager

Model Employment Agreement

Life, Well Run

Employment Agreement



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ICMA advances professional local government worldwide. Its mission is to create excellence in local governance by developing and advancing professional management of local government. ICMA, the International City/County Management Association, provides member support; publications, data, and information; peer and results-oriented assistance; and training and professional development to more than 9,000 city, town, and county experts and other individuals and organizations throughout the world. The management decisions made by ICMA's members affect 185 million individuals living in thousands of communities, from small villages and towns to large metropolitan areas.

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Contents

Introduction	1
Section 1: Term	1
Section 2: Duties and Authority	1
Section 3: Compensation	2
Section 4: Health, Disability and Life Insurance Benefits	3
Section 5: Vacation, Sick, and Military Leave	3
Section 6: Automobile	4
Section 7: Retirement	4
Section 8: General Business Expenses	5
Section 9: Termination	6
Section 10: Severance	6
Section 11: Resignation	7
Section 12: Performance Evaluation	7
Section 13: Hours of Work	8
Section 14: Ethical Commitments	8
Section 15: Outside Activities	8
Section 16: Moving and Relocation Expenses	8
Section 17: Home Sale and Purchase Expenses	9
Section 18: Indemnification	10
Section 19: Bonding	10
Section 20: Other Terms and Conditions of Employment	11
Section 21–22: Notices and General Provisions	11
Appendix 1 Separation of Employment and General Release	13

Introduction

This Agreement, made and entered into this [date], by and between the [local government] of [state], [town/city/county] a municipal corporation, (hereinafter called "Employer") and [name], (hereinafter called "Employee") an individual who has the education, training and experience in local government management and who, as a member of the International City/County Management Association (ICMA), is subject to the ICMA Code of Ethics, both of whom agree as follows:

Section 1: Term

Recommended Language

A. This agreement shall remain in full force and effect from [date] until terminated by the Employer or Employee as provided in Section 9, 10 or 11 of this agreement.

Option 1

The term of this agreement shall be for an initial period of [#] years from [date] to [date]. This Agreement shall automatically be renewed on its anniversary date for a [#] year term unless notice that the Agreement shall terminate is given at least [#] months (12 months recommended) before the expiration date. In the event the agreement is not renewed, all compensation, benefits and requirements of the agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

In the event that the Employee is terminated, as defined in Section 9 of this agreement, the Employee shall be entitled to all compensation including salary, accrued vacation and sick leave, car allowance paid in lump sum or in a continuation of salary on the existing [biweekly/monthly] basis, at the Employee's option, plus continuation of all benefits for the remainder of the term of this agreement.

Section 2: Duties and Authority

Recommended Language

A. Employer agrees to employ [name] as [title] to perform the functions and duties specified in [legal reference] of the [local government] charter and/or by ordinance (#) dated [legal reference] of the [local govern- ment] code and to perform other legally permissible and proper duties and functions without interference.

B. Employee is the chief executive officer of the Employer and shall faithfully perform the duties as prescribed in the job description as set forth in the Employer's charter and/or ordinances and as may be lawfully assigned by the Employer and shall comply with all lawful governing body directives, state and federal law, Employer policies, rules and ordinances as they exist or may hereafter be amended.

C. Specifically, it shall be the duty of the Employee to employ on behalf of the Employer all other employees of the organization consistent with the policies of the governing body and the ordinances and charter of the Employer.

D. It shall also be the duty of the Employee to direct, assign, reassign and evaluate all of the employees of the Employer consistent with policies, ordinances, charter, state and federal law.

E. It shall also be the duty of the Employee to organize, reorganize and arrange the staff of the Employer and to develop and establish internal regulations, rules and procedures which the Employee deems necessary for the efficient and effective operation of the Employer consistent with the lawful directives, policies, ordinances, state and federal law.

F. It shall also be the duty of the Employee to accept all resignations of employees of the Employer consistent with the policies, ordinances, state and federal law, except the Employee's resignation which must be accepted by the governing body.

G. The Employee shall perform the duties of (city, county or town) manager of the Employer with reasonable care, diligence, skill and expertise.

H. All duties assigned to the Employee by the governing body shall be appropriate to and consistent with the professional role and responsibility of the Employee.

I. The Employee cannot be reassigned from the position of (city, county or town) manager to another position without the Employee's express written consent.

J. The Employee or designee shall attend, and shall be permitted to attend, all meetings of the governing body, both public and closed, with the exception of those closed meetings devoted to the subject of this Agreement, or any amendment thereto or the Employee's evaluation or otherwise consistent with state law.

K. The governing body, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints and suggestions called to their attention to the Employee for study and/or appropriate action.

Section 3: Compensation

Recommended Language

A. Base Salary: Employer agrees to pay Employee an annual base salary of [$ amount], payable in installments at the same time that the other management employees of the Employer are paid.

B. This agreement shall be automatically amended to reflect any salary adjustments that are provided or required by the Employer's compensation policies to include all salary adjustments on the same basis as applied to the executive classification of employees.

C. In addition, consideration shall be given on an annual basis to an increase in compensation.

Options for Section 3. C Compensation

Option 1

The Employer agrees to increase the compensation of the Employee dependent upon the results of the performance evaluation conducted under the provisions of Section 12 of this Agreement. Increased compensation can be in the form of a salary increase and/or performance incentive and/or an increase in benefits.

Option 2

The Employer agrees to increase the compensation of the Employee dependent upon the results of the performance evaluation conducted under the provisions of Section 12 of this Agreement in addition to providing a fixed annual increase in the Employee's salary based on an agreed upon economic indicator, such as the Consumer Price Index.

Option 3

The Employer agrees to increase the compensation by [%] each year.

Option 4

The Employer agrees to increase the compensation each year by at least the average across the board increase granted to other employees of the Employer.

D. At any time during the term of the Agreement, Employer may, in its discretion, review and adjust the salary of the Employee, but in no event shall the Employee be paid less than the salary set forth in Section 3.A. of the Agreement except by mutual written agreement between Employee and Employer. Such adjustments, if any, shall be made pursuant to a lawful governing body action. In such event, Employer and Employee agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

E. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits enjoyed by and/or available to other employees, department heads or general employees of the Employer as provided by the Employer's policies, Charter, ordinances, or personnel rules and regulations or other practices.

Section 4: Health, Disability and Life Insurance Benefits

Recommended Language

A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents, at a minimum, equal to that which is provided to all other employees of the [local government]. In the event no such plan exists, Employer agrees to provide coverage for the Employee and dependents in a manner mutually agreed upon by Employer and Employee.

B. The Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee.

C. The Employee may elect to submit once per calendar year to a complete physical examination, including a cardio-vascular examination, by a qualified physician selected by the Employee, the cost of which shall be paid by the Employer.

D. The Employer shall pay the amount of premium due for term life insurance in the amount of three (3) times the Employee's annual base salary, including all increases in the base salary during the life of this agreement. The Employee shall name the beneficiary of the life insurance policy.

Option 1

A. The Employer agrees to provide for full health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents on an equivalent basis to that which is provided to all other employees of the [local government]. and Employer shall pay all premiums for the Employee and the Employee's dependents. In the event no such plan exists, Employer agrees to provide full coverage for the Employee and dependents in a manner mutually agreed upon by Employer and Employee.

B. The Employer agrees to put into force and to make required premium payments for short term and long term disability coverage for the Employee.

C. The Employee may elect to submit once per calendar year to a complete physical examination, including a cardio-vascular examination, by a qualified physician selected by the Employee, the cost of which shall be paid by the Employer.

D. The Employer shall pay the amount of premium due for term life insurance in the face amount of three (3) times the Employee's annual base salary, including all increases in the base salary during the life of this agreement. If such coverage is not available through the Employer's insurance carrier or the Employee elects to obtain coverage through a different insurance carrier, the Employer shall reimburse the Employee for the cost of the premiums in an amount equal to the same value as that provided by the Employer's insurance carrier. The Employee shall own the life insurance policy and the life insurance policy shall be in the name of the Employee and the Employee shall have the right to name the beneficiary of the life insurance policy.

Option 2

E. The Employer shall provide business travel insurance for the Employee while the Employee is traveling on the Employer's business, and the Employee shall name the beneficiary thereof. Should the Employee die while on travel for the Employer, the Employer shall cover the full cost of retrieving and transporting the Employee's remains back to the custody of the Employee's family.

Section 5: Vacation, Sick, and Military Leave

Recommended Language

A. Upon commencing employment, the Employee shall be credited with [#] accrued sick leave hours and [#] accrued vacation leave hours. In addition, beginning the first day of employment, Employee shall accrue sick leave and vacation leave on an annual basis, at a minimum, at the highest rate provided or available to any other employees, under the same rules and provisions applicable to other employees.

Option 1

Beginning the first day of employment, Employee shall accrue sick leave and vacation leave on an annual basis equivalent to the number of years served in the profession.

B. Upon commencing employment, the Employee shall have access to a bank of 180 sick days to be used in the case of serious medical conditions. This leave can only be used to provide coverage during the waiting period between the onset of illness or disability and the point at which short or long term disability coverage takes effect and may be renewed after each occurrence.

C. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, executive leave, and other benefits to date.

D. The Employee shall be entitled to military reserve leave time pursuant to state law and [local government] policy.

Option 2

E. The Employee shall annually be credited with five (5) days of executive leave.

Section 6: Automobile

Recommended Language

The Employee's duties require exclusive and unrestricted use of an automobile to be mutually agreed upon and provided to the Employee at the Employer's cost, subject to approval by Employer which shall not be withheld without good cause. It shall be mutually agreed upon whether the vehicle is purchased by the Employer, provided under lease to the Employer or to the Employee, or provided through a monthly allowance.

Option 1—Monthly Vehicle Allowance

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of [dollar amount] per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The monthly allowance shall be increased annually by [% or $] amount. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater [local government] area. For purposes of this Section, use of the car within the greater [local government] area is defined as travel to locations within a _____mile (recommended one hundred (100) mile) radius of the local government limits.)

Option 2—Employer Provided Vehicle

The Employer shall be responsible for paying for liability, property damage, and comprehensive insurance, and for the purchase (or lease), operation, maintenance, repair, and regular replacement of a full-size automobile.

Section 7: Retirement

Recommended Language

The Employer agrees to enroll the Employee into the applicable state or local retirement system and to make all the appropriate contributions on the Employee's behalf.

In addition to the Employer's payment to the state or local retirement system (as applicable) referenced above, Employer agrees to execute and keep in force all necessary agreements provided by ICMA Retirement Corporation [ICMA-RC] or any other Section 457 deferred compensation plan for Employee's [continued] participation in said supplementary retirement plan. In addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to [percentage of Employee's base salary, fixed dollar amount of [$] , or maximum dollar amount permissible under Federal and state law into the designated plan on the Employee's

behalf, in equal proportionate amount each pay period. The Employer and Employee shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

In lieu of making a contribution to a Section 457 deferred compensation plan, the dollar value of this contribution may be used, at the Employee's option, to purchase previous service from another qualified plan.

Option 1

Recognizing that effective service with the community is based in part on the stability provided through a long-term relationship, the Employer shall provide a retirement annuity, as directed by the Employee, at a rate of [dollar amount], payable at the completion of each quarter of the fiscal year. This annuity serves as a retirement contribution and does not require further action of the Employer.

Option 2

The Employer shall adopt a qualified 401(a) defined contribution plan offered through ICMA Retirement Corporation for the Employee in the form of a money purchase plan to which the Employer shall contribute [%] of compensation annually. The 401(a) plan shall be established as an employer paid plan with non-discretionary contributions by the Employer and the Employee shall have no right to receive such contributions in cash. The 401(a) plan shall be established under a written plan document that meets the requirements of the IRS Code and such document is hereby incorporated herein by reference. The funds for the 401(a) plan shall be invested in such investment vehicles as are allowable under the IRS Code and the Employee shall make the sole determination as to how the funds are invested.

Option 2 A: The Employee shall be required to contribute [%] of base salary or [dollar amount] annually on a pre-tax basis as a condition of participation.

Option3

The Employer shall adopt a qualified 401(a) profit-sharing plan offered through ICMA Retirement Corporation for the Employee in the form of a money purchase plan to which the Employer shall contribute [%] of all performance bonuses annually.

Option 3 A: The Employee shall be required to contribute [%] of base salary or [dollar amount] annually on a pre-tax basis as a condition of participation.

Section 8: General Business Expenses

Recommended Language

A. Employer agrees to budget and pay for professional dues, including but not limited to the International City/ County Management Association, and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

B. Employer agrees to budget and pay for travel and subsistence expenses of Employee for profes- sional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

C. Employer also agrees to budget and pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.

D. Employer recognizes that certain expenses of a non-personal but job related nature are incurred by Employee, and agrees to reimburse or to pay said gen- eral expenses. Such expenses may include meals where Employer business is being discussed or conducted and participation in social events of various organizations when representing the Employer. Such expenditures are subject to annual budget constraints as well as state and Employer ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

E. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer

shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

F. Recognizing the importance of constant communication and maximum productivity, Employer shall provide Employee, for business and personal use, a laptop computer, software, internet connection at Employee's permanent residence, mobile phone/personal digital assistant and/or tablet computer for business and personal use, and pager for business and personal use required for the Employee to perform their duties and to maintain communication with Employer's staff and officials as well as other individuals who are doing business with Employer. Upon termination of Employee's employment, the equipment described herein shall become the property of the Employee and at the discretion of the Employee any mobile phone number shall be transferred to the Employee.

Section 9: Termination

Recommended Language

A. For the purpose of this agreement, termination shall occur when:

1. The majority of the governing body votes to terminate the Employee in accordance with (cite applicable local law) at a properly posted and duly authorized public meeting.

2. If the Employer, citizens or legislature acts to amend any provisions of the [charter, code, enabling legislation] pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

3. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.

4. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.

5. Breach of contract declared by either party with a 30 day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

Option 1

A. In the event the Employee is terminated by the Employer during the six (6) months immediately following the seating and swearing-in of one or more new governing body members, and during such time that Employee is willing and able to perform his duties under this Agreement, then, Employer agrees to pay Severance in accordance with Section 10 plus salary and benefits in accordance with Section 10 for any portion of the six months not worked.

Section 10: Severance

Severance shall be paid to the Employee when employment is terminated as defined in Section 9.

A. If the Employee is terminated, the Employer shall provide a minimum severance payment equal to twelve (12) months salary at the then current rate of pay. This severance shall be paid in a lump sum or in a continuation of salary on the existing [biweekly/monthly] basis, at the Employee's option,

B. The Employee shall also be compensated for all sick leave, vacation leave, and all paid holidays.

The Employer agrees to make a contribution to the Employee's deferred compensation account on the value of this compensation calculated using the then current annual salary of Employee at the date of termination divided by two thousand and eighty (2080) hours. If the amount of the contribution under this Section exceeds the limit under the Code for a contribution to the Deferred Compensation plan, the remainder shall be paid to the Employee in a lump sum as taxable compensation.

C. For a minimum period of one year following termination, the Employer shall pay the cost to continue the following benefits:

1. Health insurance for the employee and all dependents as provided in Section 4A, after which time, Employee will be provided access to health insurance pursuant to the Consolidated Omnibus Budget Reconciliation Act ("COBRA").

2. Life insurance as provided in Section 4D

3. Short-term and long-term disability as provided in Section 4B

4. Car allowance or payment of lease, or provide option to buy Employer's vehicle at depreciated value

5. Out placement services should the employee desire them in an amount not to exceed [$10,000 to $15,000 recommended], and

6. Any other available benefits.

D. If the Employee is terminated because of a felony conviction, then the Employer is not obligated to pay severance under this section.

E. The termination and severance of Employee shall be in accordance with the "Separation Agreement" agreed to by Employer and Employee. A template for such agreement is provided by ICMA, and is incorporated herein by reference.

**Provisions for severance and severance related benefits may be governed by state and/or local law. Before entering into negotiations, both parties should be knowledgeable about relevant legal provisions.*

Section 11: Resignation

In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days notice unless Employer and Employee agree otherwise.

Section 12: Performance Evaluation

A. Employer shall annually review the performance of the Employee in [month] subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee.

The annual evaluation process, at a minimum, shall include the opportunity for both parties to: (1) conduct a formulary session where the governing body and the Employee meet first to discuss goals and objectives of both the past twelve (12) month performance period as well as the upcoming twelve (12) month performance period, (2) following that formulary discussion, prepare a written evaluation of goals and objectives for the past and upcoming year, (3) next meet and discuss the written evaluation of these goals and objectives, and (4) present a written summary of the evaluation results to the Employee. The final written evaluation should be completed and delivered to the Employee within 30 days of the initial formulary evaluation meeting.

B. Unless the Employee expressly requests otherwise in writing, the evaluation of the Employee shall at all times be conducted in executive session of the governing body and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Employer or Employee from sharing the content of the Employee's evaluation with their respective legal counsel.

C. In the event the Employer deems the evaluation instrument, format and/or procedure is to be modified by the Employer and such modifications would require new or different performance expectations, then the Employee shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

D. In the event the Employee is an ICMA Credentialed Manager, the multi-rater evaluation tool will be utilized at a minimum of every five years.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule. The schedule shall be appropriate to the needs of the Employer and shall allow Employee to faithfully perform his or her assigned duties and responsibilities.

Section 14: Ethical Commitments

Employee will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto and incorporated herein. Specifically, Employee shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time.

Employer shall support Employee in keeping these commitments by refraining from any order, direction or request that would require Employee to violate the ICMA Code of Ethics. Specifically, neither the governing body nor any individual member thereof shall request Employee to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

Section 15: Outside Activities

The employment provided for by this Agreement shall be the Employee's primary employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements must neither constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement.

Section 16: Moving and Relocation Expenses

Recommended Language

Employee agrees to establish residence within the corporate boundaries of the local government, if required, within [number] months of employment, and thereafter to maintain residence within the corporate boundaries of the local government.

A. Employer shall pay directly for the expenses of moving Employee and his/her family and personal property from [location name] to [location name]. Said moving expenses include packing, moving, storage costs, unpacking, and insurance charges. The Employee shall provide evidence of actual moving expenses by securing quotations from three (3) companies. The Employee shall submit these quotes to the Employer who, in consultation with the Employee, shall select the moving company.

B. Employer shall reimburse Employee for actual lodging and meal expenses for his/her family in route from [location name] to [location name]. Mileage costs for moving two personal automobiles shall be reimbursed at the current IRS allowable rate of [cents amount] per mile.

C. Employer shall pay Employee an interim housing supplement of [dollar amount] per month for a period commencing [date], and shall continue for a maximum of [#] months, or until a home is purchased and closed on, within the corporate limits of the [local government name], whichever event occurs first.

D. Employer shall reimburse Employee for a total of [number] round trip air fares for Employee and his/her family [amount of total tickets] at any time during the first year of service to assist with house hunting and other facets of the transition and relocation process. The

Employee and his/her family may utilize and distribute the total [enter number] individual round trip tickets in any combination of individual members making the trips. The Employee shall be reimbursed for actual lodging and meal expenses incurred by Employee or his/her family members on any trips conducted prior to relocation, as detailed herein.

E. The Employee shall be reimbursed, or Employer may pay directly, for the expenses of packing and moving from temporary housing to permanent housing during the first year of this agreement. The cost of this move shall not exceed (dollar amount).

F. The Employer shall pay the Employee's tax liability on all Employer provided benefits for relocation and housing.

Option 1

The Employer shall pay a lump sum payment of [$] to the Employee to cover relocation costs.

Section 17: Home Sale and Purchase Expenses

Recommended Language

A. Employee shall be reimbursed for the direct costs associated with the sale of Employee's existing personal residence, said reimbursement being limited to real estate agents' fees, and other closing costs that are directly associated with the sale of the house. Said reimbursement should not exceed the sum of [$].

B. Employee shall be reimbursed for the costs incidental to buying or building a primary residence within the [local government], including real estate fees, title insurance, and other costs directly associated with the purchase or construction of the house, said reimbursement not to exceed the sum of [$].

Option 1

Employer shall reimburse Employee for up to three discount points within thirty (30) days following purchase of a home within the corporate limits of [local government name], in an effort to minimize mortgage rate differentials.

Option 2

Employer shall provide Employee with a [fixed-interest, variable-interest, interest-only] loan to purchase a house. The amount of the loan shall not exceed $_____. The loan shall be repaid in full to the Employer upon the occurrence of either of the following events: (i) the home, or the Employee's interest in the home, is sold, transferred, or conveyed, or (ii) the Employee's employment with the Employer, for any reason, is terminated. The Employer and Employee shall execute any and all documents necessary to document this transaction.

Option 3

Employer agrees to provide the Employee a loan for the purchase of a home in an amount not to exceed [dollar amount]. Employee shall pay Employer a monthly mortgage payment of [dollar amount] for interest, which is equal to the amount currently being paid in principle and interest for the current residence. Employee shall accrue equity at a rate of [%] per month.

Upon termination of employment with the Employer, Employee shall have a maximum of six months to sell the home while continuing to reside in it under the terms and conditions here. Should the home sell during the time period, Employer shall receive 100% of the proceeds minus the percentage of equity accrued by Employee as described above, and minus the amount of equity originally invested by Employee. Said accrued equity and original equity shall both be payable to Employee upon closing. Said original equity invested shall be calculated as an amount equal to the percentage of original purchase price, represented by the original equity investment by Employee, and adjusted to be the same percentage of equity in the current sale price of the home. All closing costs borne by the seller shall be split between Employer and Employee in a proportion equal to the equity share described above. Should the house fail to sell within the allotted six month time period, Employer has the option of allowing the previous arrangement to continue in place or to purchase equity, calculated as provided above, plus the original cost of all improvements made to the property.

Option 4

A. Employer shall provide a residence for Employee at no cost to Employee other than the monthly cost of all utilities and services. Should Employee choose to not accept the housing no additional housing incentive shall be provided to Employee.

B. Upon separation, voluntary or involuntary, Employee shall vacate the residence with six (6) months of date of separation.

Option 5

Employee shall place their current residence on the market and make every reasonable attempt to sell residence. If after six (6) months, Employee has not sold or agreed to sell their residence the Employer shall purchase the residence from Employee at ninety percent (90%) of current list price or appraised value whichever is less. Employer shall then place the residence on the market with all proceeds of any sale to Employer.

Section 18: Indemnification

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any obligation to pay money or perform or no perform action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as [job title] or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise and unless the Employee is a party to the suit which Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation.

Section 19: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 20: Other Terms and Conditions of Employment

A. The Employer, only upon agreement with Employee, shall fix any such other terms and condi- tions of employment, as it may determine from time to time, relating to the performance of the Employee, pro- vided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agree- ment, the [local government] Charter, local ordinances or any other law.

B. Except as otherwise provided in this Agreement, the Employee shall be entitled, at a minimum, to the highest level of benefits that are enjoyed by or offered to other [appointed officials, appointed employees, department heads or general employees] of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Option 1—Appropriation

The Employer has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and unappropriated funds of the municipality in an amount sufficient to fund and pay all financial obligations of the Employer pursuant to this Agreement, including but not limited to, the Severance and other benefits set forth in Section10.

Section 21: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, and addressed as follows:

(a) EMPLOYER: City of ( )
address
city,state,zip

(b) EMPLOYEE: name
address
city, state zip

Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 22: General Provisions

A. **Integration.** This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the Employer and Employee are merged into and rendered null and void by this Agreement. The Employer and Employee by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. **Binding Effect.** This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. **Effective Date.** This Agreement shall become effective on _____, _____.

D. **Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both Employer and Employee subsequent to the expungement or judicial modification of the invalid provision.

E. **Precedence.** In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of Council's policies, or Employer's ordinance or Employer's rules and regulations, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of Council's policies, or Employer's ordinances, or Employer's rules and regulations or any such permissive law during the term of this Agreement.

Name of Employer

By: _____
Governing Body Representative

Executed this the (number) day of (month), (year).

Employee

Signature: _____

Executed this the (number) day of (month),(year).

Appendix 1

SEPARATION OF EMPLOYMENT AND GENERAL RELEASE

This Separation of Employment and General Release Agreement ("Agreement") is made by and between the [local government] ("Employer") and _____("Employee").

WHEREAS, Employer has employed Employee as its _____; however, the parties wish to enter into a voluntary agreement to terminate their employment relationship and to resolve any actual or potential claims that either party may have against the other by reason of Employee's employment or termination thereof.

WHEREAS, The parties desire to set forth the terms and conditions governing Employee's separation of employment and to provide for the settlement and release of any and all disputes or controversies that have arisen, or which may hereafter arise, between Employer and Employee, including without limitation, any and all claims arising out of or in any way related to Employee's employment with or separation from the Employer.

NOW THEREFORE, in consideration of the mutual covenants herein contained and the mutual benefits to be derived therefrom, the sufficiency of which consideration is hereby acknowledged by the undersigned, Employer and Employee agree and state:

1. **TERMINATION OF EMPLOYMENT.** Upon their mutual agreement, Employee's employment _____shall terminate on _____, 20__, which shall be Employee's final date of employment.

2. **NO ADMISSION OF LIABILITY.** This Agreement is not an admission by Employee or Employer of any wrongful conduct whatsoever. Both parties deny and disclaim any liability to or wrongful conduct against the other or any third party.

3. **PAYMENT AND BENEFITS.** Employee shall receive his/her regular paycheck for the pay period ending _ _____, 20__ on or before _____, 20__. Employee shall receive on or before _____, 20__ an additional payment to compensate for his accumulated leaves (vacation and floating holidays) and comp time, subject to customary payroll deductions.

As consideration for this Agreement and the release contained within, and in full and complete satisfaction of all obligations due and owing Employee, Employer shall:

a. Pay Employee an amount equal to _____(__) months of his current salary, subject to customary payroll deductions—to include Employee's portion of health, dental and vision insurance premiums for _____(__) months.

b. Continue, and pay for, Employer's current health, dental and vision insurance coverages for _____(__) months, ending on _____, 20__.

[C. INCLUDE ANY OTHER CONSIDERATION, SUCH AS AGREEING NOT TO CONTEST UNEMPLOYMENT, ALLOWING THE EMPLOYEE TO PURCHASE HIS WORK LAPTOP, ETC.]

3. **SURRENDER AND VACATION OF EMPLOYER's PROPERTY.** Upon execution of this Agreement, Employee shall deliver all Employer's property in his/her possession and further, shall vacate Employer's property.

4. **RELEASE AND WAIVER OF CLAIMS.** In consideration of the benefits to be provided to Employee pursuant to this Agreement, Employee—including his heirs and assigns—hereby irrevocably and unconditionally releases, acquits and discharges Employer and each of its past, present and future elected officials, department heads, officers, employees, agents, representatives and attorneys from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred), of any nature whatsoever, whether known or unknown, arising out of any act, omission, or event from the beginning of time up to the execution of this Agreement. Employee specifically acknowledges and agrees that he is releasing and giving up any right that he may now have under federal or state law or political subdivision thereof and any claims that he may now have or could have asserted against Employer.

Employee specifically agrees to release all claims that against Employer under many different laws, including but not limited to: ***the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, and Executive Order 11141, which prohibit age discrimination in employment;*** Title VII of the Civil Rights Act of 1964, Section 1981 of the Civil Rights Act

of 1866, and Executive Order 11246, which prohibit discrimination based on race, color, national origin, religion, or sex; the Americans with Disabilities Act and Sections 503 and 504 of the Rehabilitation Act of 1973, which prohibit discrimination based on disability; any other federal, state, or local laws prohibiting employment or wage discrimination; the Fair Labor Standards Act of 1938 and state laws that regulate wage and hour matters; the Family and Medical Leave Act of 1993; the Employee Retirement Income Security Act of 1974; any federal, state, or local laws providing workers' compensation benefits, prohibiting retaliatory or wrongful discharge, otherwise restricting an employer's right to terminate employees, or otherwise regulating employment; claims for breach of contract, promissory estoppel, defamation, slander, or libel; claims for termination pay, severance, or other benefits; and any other federal, state, or local tort or contract claim. Employee expressly waives all rights that he might have under any law that is intended to protect him from waiving unknown claims.

Employer hereby irrevocably and unconditionally releases, acquits and discharges Employee from any and all from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred), of any nature whatsoever, whether known or unknown, arising out of any act, omission, or event from the beginning of time up to the execution of this Agreement.

5. **REFERENCES AND NON-DISPARAGEMENT.** If it is necessary for Employer to provide a reference to a prospective employer, Employee agrees that he will direct the prospective employer to contact _____. Additionally, Employee and the elected officials agree that they shall not disparage or make negative comments about each other; provided that this Section shall not apply to comments made to any other governmental entity or as required by law.

6. **REPRESENTATIONS AND WARRANTIES.** The undersigned parties hereby represent and warrant the following to the other:

a. Employee represents and warrants that: he/she is legally and mentally competent to sign this Agreement; he/she is the sole owner of any claims against the Employer; he/she has the requisite capacity and authority to make this Agreement, and no portion of any existing or potential claims has been sold, assigned or pledged to any third party; and he/she presently possesses the exclusive right to receive all of the consideration paid in exchange for this Agreement.

b. Employee represents and warrants that he/she has not and will not file any complaints, charges or lawsuits against Employer or any of its past, present and future elected officials, department heads, officers, employees, agents, representatives or attorneys with any governmental agency or any court, including without limitation, any claim or matter of any nature whatsoever related to or arising out of his employment with or separation of his/her employment, except Employee expressly reserves the right to file a claim for unemployment benefits. Employee further agrees to indemnify and hold Employer harmless from any and all loss, costs, damages or expenses, including reasonable attorney fees incurred by Employer, arising out of any claim concerning the separation of employment that may hereafter be made by the Employee or any other party.

c. Employer represents and warrants that it has not and will not file any complaints, charges or lawsuits against Employee with any governmental agency or any court, including without limitation, any claim or matter of any nature whatsoever relating to or arising out of Employee's employment with Employer or the separation of his employment from Employer. Employer further agrees to indemnify and hold the Employee harmless from any and all loss, costs, damages or expenses, including reasonable attorney fees incurred by Employee, arising out of any claim arising from the separation of his employment that may hereafter be made by Employer or any other party.

d. Each party is fully aware of the contents of this Agreement and of its legal effect and understands that it should obtain legal advice regarding this Agreement as they deem appropriate. The parties hereto and each of them, have carefully read this Agreement and know the contents thereof, and they signed the same freely and voluntarily.

e. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or

of any succeeding breach of the same provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach. If any provision in this Agreement is found to be unenforceable, all other provisions will remain fully enforceable.

f. No promise or inducement has been made or offered, except as herein expressly set forth, and this Agreement is executed without reliance upon any statement or representation by any of the released parties or their representatives.

g. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either party.

h. This Agreement and any amendments hereto may be executed in multiple counterparts by the parties. Each counterpart shall be deemed an original, but all counterparts together shall constitute one and the same instrument

7. **JURISDICTION.** This Agreement shall be governed by the laws of the State of _____, and the _____ County District Court shall have exclusive jurisdiction of any disputes arising under this Agreement.

8. **BINDING EFFECT.** This Agreement shall be binding upon and shall accrue to the benefit of the parties hereto, their respective personal representatives, successors in interest and assigns.

9. ***REVIEW & REVOCATION.*** **The parties acknowledge that Employee may revoke his/her acceptance and execution of this Agreement at any time within seven (7) days of the date of his/her execution of it. Any revocation shall be in writing and shall be effective upon timely receipt by the Employer's Attorney.**

If the revocation is submitted by mail, the revocation must be postmarked before the expiration of the seven (7)-day revocation period, and must be sent by overnight mail or other method so that it is received at the above address no later than the next business day immediately following the expiration of the seven (7)-day period. Further, Employee represents that, before accepting and executing this Agreement, he/she was given a review period of twenty-one (21) days in which to consider it. Employee further represents that he/she: (a) took advantage of as much of this period as required to consider this Agreement before signing it; (b) carefully read the Agreement and the Release included herein; (c) fully understands it; and (d) is entering into it voluntarily. Employee represents that Employer encouraged him/her to discuss this Agreement with an attorney of choice before signing it. This Agreement shall not become effective or enforceable until the seven-day revocation period has expired without Employee having revoked acceptance of it.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below and each hereby acknowledge receipt of an executed copy of this Agreement.

On behalf of the Employer of

_____, _____:

_____

Employer

_____

Date

Attested by:

_____

Employer's Representative

_____

Date

On behalf of Employee:

_____

_____

Date

Evaluating your Professional Manager

ICMA Manager Evaluations Handbook

Life, Well Run



Manager Evaluations
HANDBOOK

ICMA



ICMA advances professional local government worldwide. Its mission is to create excellence in local governance by developing and advancing professional management of local government. ICMA, the International City/County Management Association, provides member support; publications, data, and information; peer and results-oriented assistance; and training and professional development to more than 9,000 city, town, and county experts and other individuals and organizations throughout the world. The management decisions made by ICMA's members affect 185 million individuals living in thousands of communities, from small villages and towns to large metropolitan areas.

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Contents

Definition of Terms iv

Members of the Task Force on Manager Evaluations iv

Preface 1

Executive Summary 2

Successful Evaluation Tips 3

Introduction 4

The Purpose of Manager Evaluations 4

Basic Process 4

How to Initiate 4

How to Proceed 5

Frequency and Timing of Manager Evaluations 7

What Others Are Doing: Survey Results 9

Failure to Undertake Evaluations 9

Lack of a Credible Evaluation Process 10

Lack of Knowledge of the Council-Manager Form of Government 10

Lack of Communication 10

Supplemental Approaches 10

Self-Evaluations 11

Periodic Check-ins 11

360-Degree Assessments 11

Conversation Evaluation System 12

Data-gathering/Software Resources 12

Conclusion 13

Sample Evaluation Forms for Local Government CAOs 13

Other Resources 13

Definition of Terms

- The term *local government*, as used in this handbook, refers to a town, village, borough, township, city, county, or a legally constituted elected body of governments.
- The term *manager* refers to the chief executive officer (CEO) or chief administrative officer (CAO) of any local government who has been appointed by its elected body to oversee day-to-day operations.
- The terms *elected officials, elected body*, and *board* refer to any council, commission, or other locally elected body, including assemblies, boards of trustees, boards of selectmen, boards of supervisors, boards of directors, and so on.
- The term *manager evaluation* refers to the appraisal or assessment conducted by the elected body of the manager's performance in achieving organizational goals and implementing policy.

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Preface

The evaluation of the manager is a key component of any well-run local government, yet the value of a quality evaluation process and the responsibility for that activity is often overlooked. Even in communities that are considered to be professionally governed, the performance evaluation of the local government manager can be an afterthought. The 2012–2013 Executive Board of the International City/County Management Association (ICMA), led by President Bonnie Svrcek, acknowledged the need for local government managers and their elected bodies to put more focus on the manager evaluation process. Accordingly, it created a task force of managers from around the United States, representing over a dozen communities, to develop a *Manager Evaluations Handbook* that would assist managers and their boards in this critical task.

Managers are encouraged to review this handbook with an eye toward working with their elected bodies to develop formal, mutually agreed-upon processes for their own evaluations. This handbook, however, is also intended to highlight the value of a formal manager evaluation process and to assist local elected officials in the design of an effective evaluation tool.

Executive Summary

The periodic evaluation of the local government manager by the elected body is an important component of a high-performance organization. The evaluation should contain performance goals, objectives, and targets that are linked to the elected body's established strategic plans, goals, and priorities, and it should focus on the manager's degree of progress toward organizational outcomes. To be fair, it must be based on criteria that have been communicated to the manager in advance. Sample or generic evaluation forms, if used, should be customized to reflect these criteria.

The purpose of the evaluation process is to increase communication between the members of the elected body and the manager concerning the manager's performance in the accomplishment of assigned duties and responsibilities, and the establishment of specific work-related goals and objectives for the coming year. Thus, all members of the elected body should participate in the process, both by individually completing the rating instrument and by discussing their ratings with the other board members in order to arrive at a consensus about performance expectations.

There is no one correct way to conduct a manager evaluation. The key is to ensure that the evaluation takes place in a regular, mutually agreed-upon manner and is viewed by all as an opportunity for communication between the elected officials and the manager.

It may be useful, particularly if the members of the elected body are inexperienced in the performance evaluation process, to use a consultant to help the elected body prepare for and conduct the manager's evaluation.

Successful Evaluation Tips[1]

Performance evaluations will allow you to

A. Recognize the accomplishments of the manager and show appreciation for the unique contributions to the organization
B. Clearly identify areas where the manager is doing well
C. Clearly identify areas where the manager can improve his or her performance
D. Specify definite actions that will allow the manager to make additional value-added contributions to the organization in the future.
E. Obtain the manager's own opinions on progress and his or her individual contribution to collective actions and achievements.

Discussing tasks that the manager performs well

- Gives the manager insight into self-awareness, interests, and motivation
- Gives the manager recognition and appreciation for achievements
- Creates a positive climate for the remainder of the review.

Reminders:

- Listen intently.
- Reinforce the manager's performance.
- Emphasize facts; provide concrete examples and specific descriptions of actions, work, and results.
- Give only positive feedback during this part of the evaluation.
- Acknowledge improvements that the manager has made.
- Praise efforts if the manager has worked hard on something but failed because of circumstances beyond his or her control.
- Describe performance that you would like to see continued.

Discussing areas that need improvement

- Gives insight into how the manager feels about change, improvement for growth
- Allows you to express any concerns you have about the manager's overall performance and performance in specific areas
- Lets you challenge the manager to higher levels of achievement.

Reminders:

- Keep the discussion focused on performance.
- Describe actions and results that do not meet expectations.
- Describe areas where the manager can make a greater contribution.
- Describe any situation or performance observed that needs to be changed; be specific.
- Tell the manager what needs to be done if a specific change of behavior needs to take place.
- Focus on learning from the past and making plans for the future.
- Keep this part of the discussion as positive and encouraging as possible.

Do's and Don'ts

DO:

- Spend a few minutes warming up in which the agenda is laid out so everyone is reminded about what to expect. Give an overview.
- Always start with the positives. Be specific.
- Explain the ratings in all areas: Talk about how the consensus was arrived.
- Be honest. Tell it like it is.
- Be a coach, not a judge. Managing employees is a lot like being an athletic coach. Effective coaching involves a lot more than just score keeping. Simply providing the score at the end of the game doesn't improve performance.
- Discuss with the manager his or her reactions to the ratings, making clear that you are interested in his or her feelings and thoughts.
- If appropriate, develop an improvement plan that includes areas of deficiency, developmental needs.

DON'T:

- Rate the manager without the facts. Ratings should be on actual results.
- Be too general.
- Sidestep problems. Document performance problems and clearly identify what needs improvement.
- Be vague or generalize the reasons for the performance scores. Clear and specific examples of results should be available.
- Ambush the manager by identifying deficiencies or problems that have never been addressed in informal discussions prior to the formal evaluation.
- Minimize the manager's concerns or discount his or her feelings.

Introduction

There is some irony in the fact that managers' evaluations are often less formal and less structured than those of the managers' employees. While the manager may oversee the evaluation of hundreds of employees within an organization, his or her own performance evaluation becomes the task of elected leaders who are often not formally trained in the evaluation process or who have narrow or conflicting definitions of good performance. The fact that an elected body with numerous members is charged with the task of evaluating the manager makes the need for a clear and agreed-upon evaluation process even more important. And a thoughtful and structured evaluation process that is supported by all involved parties enhances the ongoing communication that is fundamental to effective board/manager relationships.

A manager's evaluation should contain performance goals, objectives, and targets that are linked to the elected body's established strategic plans, goals, and priorities and should focus on whether the manager has achieved the desired organizational outcomes.

Sometimes the tone of a performance review can be unduly influenced by the manager's last success or failure. Judging performance on the basis of a single incident or behavior is a common problem that can arise in any organization. But a single incident or behavior should not be the sole focus of a performance evaluation. That is not to discount the importance of how a manager handles high-stress, higher-profile issues, which is an important aspect of a manager's responsibility. However, day-to-day leadership, which is also a key responsibility of the manager, can sometimes go unnoticed even though it provides the foundation in which high-stress, high-profile issues are handled.

ICMA has developed a list of 14 Practices for Effective Local Government Leadership that is recommended to members who are considering their own professional development needs and activities. The core areas represent much of what local government managers are responsible for on an everyday basis, and competency by the manager in these practices is central to an effective, high-performing, professionally managed local government. It is therefore the recommendation of ICMA's Task Force on Manager Evaluations that competency in the ICMA Practices also be considered in the manager's performance evaluation.

There is no one way, let alone one single correct way, to conduct an effective manager evaluation. This *Manager Evaluations Handbook* will present traditional evaluation approaches that have proven to be successful, along with some alternative methods that may be good for your local government. Again, the key is to ensure that the evaluation takes place in a regular, mutually agreed-upon manner and is viewed by all as an opportunity for communication between the elected officials and the manager.

The Purpose of Manager Evaluations

High-performance local governments embrace an ethos of continual improvement. Conducting regular appraisals of the manager's work performance is part of the continual improvement process.

The purpose of the evaluation process is to increase communication between the members of the elected body and the manager concerning the manager's performance in the accomplishment of his or her assigned duties and responsibilities and the establishment of specific work-related goals, objectives, and performance measures for the coming year. The evaluation process provides an opportunity for the elected body to have an honest dialogue with the manager about its expectations, to assess what is being accomplished, to recognize the manager's achievements and contributions, to identify where there may be performance gaps, to develop standards to measure future performance, and to identify the resources and actions necessary to achieve the agreed-upon standards. Keeping the focus on "big picture" strategic goals and behaviors rather than on minor issues or one-time mistakes/complaints leads to better outcomes.

Given that good relationships promote candor and constructive planning, the performance appraisal also provides a forum for both parties to discuss and strengthen the elected body–manager relationship, ensuring better alignment of goals while reducing misunderstandings and surprises. When elected bodies conduct regular performance appraisals of the manager, they are more likely to achieve their community's goals and objectives.

Basic Process

Ideally, the performance appraisal process for a manager is the natural continuation of the hiring process.

How to Initiate

Prior to the recruitment of candidates, the elected body typically develops the goals and objectives for

the position of manager. Then, during the selection process, the candidate and the hiring body meet to discuss these items along with the long- and short-term needs and issues of the community. Through these conversations, the basic tenets of the manager's performance evaluation are identified. At this point, the performance appraisal process just needs to be formalized. When the employment offer has been accepted, the employment agreement should include the requirement and schedule for the manager's evaluation.

(Excellent tools for preparing the employment agreement are contained in the ICMA Recruitment Guidelines for Selecting a Local Government Administrator and the ICMA Model Employment Agreement.)

The employment agreement should stipulate that the performance evaluation will be a written document and that all parties will meet to discuss the contents in person. It should also identify the frequency with which evaluations will take place (e.g., annually, semi-annually). By including this information in the employment agreement, the hiring body ensures that communications between the manager and the elected body will be consistently scheduled, and that initiatives and objectives can be reviewed and updated on a regular basis.

It is especially critical for the elected body to come to consensus on the initial expectations of the newly hired manager so that priorities can be assigned and progress measured. Those issues that were important during the hiring process will logically factor into the initial evaluation process. Then, in the succeeding years, the document can be revised to reflect the latest accomplishments and newest challenges.

Of course, priorities may shift during the year. If that happens, make it clear to the manager that new or changed priorities are being added into the evaluation process.

If, with the passage of time, elections have taken place and the board that is conducting the evaluation is not the same board that did the hiring, it is important that the newly elected officials immediately be introduced to the established performance goals, measures, and evaluation process. This can be done as part of the orientation process for new board members, included in the discussion of the form of government and the role of the manager. If a new member has no experience in conducting performance evaluations, he or she will need to receive training before participating in this process.

If performance evaluations were not discussed during the hiring process, either the manager or the elected body may request that an evaluation process be instituted, and the specifics for conducting the evaluation can then be agreed upon outside of the provisions of the employment agreement. If the request is made by the elected body, it is important to emphasize that the purpose of the evaluation process is to serve as a tool for organizational improvement, not as a means of punishing the manager or setting the stage for termination. While elected officials, especially those newly elected, may sometimes wish for a change in management, the performance evaluation process should not be used to effect such a change.

How to Proceed

A number of issues should be considered when preparing for the evaluation process, including how to develop the rating instrument (and whether to use an outside consultant), how to use the rating instrument, and whether the evaluation should be conducted in private or in public.

Developing the Rating Instrument

Unlike most employee performance evaluations, in which the employee is evaluated by a single executive or supervisor, the manager's evaluation is conducted by a group of individuals acting as a body. As each elected official likely has different expectations, the board members must first come to a consensus on measures and definitions to be used.

Using a consultant. If the members of the elected body are inexperienced in the performance evaluation process, it might be helpful at this point to use an independent consultant to assist in preparing for and conducting the manager's evaluation. A consultant could be used in a variety of ways.

When designing the evaluation instrument, a consultant should solicit each elected official's full participation by asking for examples and details for each rating category. Whether this is accomplished by interviewing each official individually or by facilitating a group session, it is important to ensure that all voices are heard. Use of an independent consultant is especially helpful if there is a lack of cohesion among elected officials.

Once the consultant has collected the information, the elected body and manager should meet in person to discuss the findings. It is recommended that the in-person conversation with the manager to review the evaluation be conducted by the elected body with the assistance of the consultant but not by the consultant alone.

If funds are limited, a consultant could be used in a limited engagement to prepare an evaluation system and then train the elected officials on how to conduct an evaluation, which the officials may manage themselves after the first year.

If the elected body decides to use a consultant, the Society for Human Resource Management (SHRM) may be a source of referrals, as may be state municipal leagues or the local government's regular employment consulting firms. If a recruiter was used to assist with the hiring process, the recruiter's agreement could be extended to include the setup of the initial evaluation process.

It is recommended that the evaluation process NOT be facilitated by the local government's corporation counsel, municipal clerk, or human resources director because these individuals are not independent parties. In almost all cases, their positions have either a reporting or a cooperating relationship with the manager, so involving them in the manager's evaluation may damage relationships that are necessary for the effective and efficient operation of the local government

Proceeding without a consultant. If a consultant is not used to facilitate the development of the evaluation instrument, the elected body may wish to begin by reviewing the format and process used for the other local government employees and considering the same or a revised method. It is important to understand, however, that a manager is evaluated in additional ways. Because of this key difference, flexibility is needed to add any necessary components intended to assess varied goals and objectives and to facilitate a dialogue between the elected body and the manager.

To be fair, the evaluation must be outcome based, using criteria that have been previously communicated to the manager and that incorporate the elected body's priorities. The use of a prefabricated generic evaluation form (even the sample forms found at the end of this handbook) is not recommended without some customization to reflect these priorities.

Measure observable behaviors and progress toward goals

The manager's job is to achieve the organization's goals and implement the policies that have been determined by the elected body. Evaluating the manager's effectiveness in achieving the goals necessarily means that the elected body must have determined and communicated the goals to the manager in advance, ideally through a strategic planning process.

The members of the board must be in agreement about their expectations of the manager. Furthermore, both the manager and the board must understand what the expectations are.

The performance criteria established by the board for each of the prioritized functional areas need to be

> The manager's success in achieving the goals set by the elected body is related to his or her competencies and behaviors with respect to the specific functions identified as the responsibility of the manager. Defining the strengths of the manager and identifying areas for improvement are part of the evaluation process. ICMA has a list of 14 core areas critical for effective local government management and leadership. While this list, the ICMA Practices for Effective Local Government Leadership, was developed for the purpose of ICMA's Voluntary Credentialing professional development program, the elected body might find it helpful for identifying the specific observable behaviors to be used in the manager evaluation. It is suggested that the elected body select what it believes to be the most important areas for achieving its goals and evaluate the manager's performance in these areas. The ICMA Practices are as follows (click here for descriptions):
>
> 1. Personal and Professional Integrity
> 2. Community Engagement
> 3. Equity and Inclusion
> 4. Staff Effectiveness
> 5. Personal Resiliency and Development
> 6. Strategic Leadership
> 7. Strategic Planning
> 8. Policy Facilitation and Implementation
> 9. Community and Resident Service
> 10. Service Delivery
> 11. Technological Literacy
> 12. Financial Management and Budgeting
> 13. Human Resources Management and Workforce Engagement
> 14. Communication and Information Sharing

specific and observable by the members of the elected body. If the criteria are quantifiable, they should be expressed in objective, measurable terms. For example, the manager saved 10% on the new project. If the criteria are qualitative and subjective, they can be expressed in terms of the desired outcome. For example, members of the community and employees frequently commented on the manager's fairness during this evaluation period.

Using the Rating Instrument

The usefulness of any performance evaluation depends almost entirely upon the understanding, impartiality, and objectivity with which the ratings are made. In order to obtain a clear, fair, and accurate rating, an evaluator must clearly differentiate between the personality and performance of the manager being rated, making an objective and unbiased assessment on the basis of performance alone. Fairness requires the ability to identify both the strengths and weaknesses of the manager's performance and to explain these constructively to the manager.

When an evaluation is completed by a group of people, it is important that it reflect the consensus opinion of all members. All members of the elected body should participate in the manager evaluation process in order to arrive at a consensus. This consensus can be accomplished by having each member individually rate the manager, followed by a group discussion to arrive at a final consensus rating for each measure. Alternatively, if consensus cannot be reached, each member can individually complete the rating form, and then one member (or the consultant, if one is used) can collect the forms and compile the results and comments into one document, followed by group discussion. It is important that each member's ratings, whether positive or negative, be backed up with specific comments and examples so that the whole group understands the reasoning behind them.

If individual comments—those that do not necessarily represent the sentiments of the elected body as a whole—are to be included in the final document that will be discussed with the manager, the board should decide in advance whether those comments will be anonymous or attributed to the individuals making them.

It is important to keep in mind that performance evaluation is just one part of the communication toolbox between the manager and elected officials. It is intended to enhance that communication, not to result in a periodic written "report card" that is an end in itself. In addition, nothing in the evaluation ought ever to be a surprise. Ongoing conversations should be held throughout the year (assuming that the evaluation is done annually) to help the manager understand if he or she is on course or if any midseason corrections are necessary. Ideally, the items in the evaluation will have already been touched on in these conversations, so the evaluation will serve as a written summary of them.

Public versus private evaluations

When deciding whether to conduct the evaluation process in a public or an executive/closed session, the elected officials, manager, and legal counsel should review state law. When possible, it is recommended that the performance evaluation process occur in executive/closed session between the elected body and manager; however, many states have specific regulations about whether and when the public may be excluded from attending a meeting involving the elected body or from having access to certain records involving a public employee. Such "sunshine" laws were first created to increase public disclosure by governmental agencies. The purpose is to promote accountability and transparency by allowing the public to see how decisions are made and how money is allocated.

While all states have such laws, the exact provisions of those laws vary. For example, specific legislation may require that all government meetings be open to the public or that written records be released upon request. In many states, all local government records are available for review by the public, including evaluation documents and notes, unless they are specifically exempted or prohibited from disclosure by state statutes.

Regardless of whether the evaluation is conducted in a public or an executive/closed session, each state's statute will dictate certain procedures for meeting notification, recording of minutes, and disclosure of decisions made. These procedures should be reviewed by the elected officials, manager, and legal counsel and followed throughout the evaluation process.

However, all final decisions or actions related to the manager's performance (e.g., employment agreement changes, compensation) should be made in a public setting.

Frequency and Timing of Manager Evaluations

As previously noted, the manager evaluation process, including the frequency and timing of the evaluations,

Benefits of executive session/closed meeting to evaluate manager's performance

- Provides a venue for handling issues that are best discussed in private, and ensures confidentiality until a decision is made regarding the manager's performance
- Provides a forum that is not unduly influenced by outside sources
- Promotes a free-flowing discussion of comments by the elected body and manager
- Ensures the respect and privacy of personnel dealings between the elected body and manager
- Improves communication between the elected body and the manager
- Reduces opportunity to politicize the performance evaluation process
- Provides a forum for the elected body and the manager to talk openly about topics that warrant special attention, such as succession planning, senior staff performance, and executive compensation
- Enables elected officials to challenge the manager without fear of undermining his or her authority in the community

Benefits of an open session/meeting to evaluate manager's performance

- Can build transparency and trust by enabling members of the public to view the process
- Can reduce claims of inappropriate agreements and "secrets"
- Can improve elected body, manager, and citizen relationships

Benefits of providing a public summary once the process is completed

- Lets the public know how the elected body evaluates and views the manager
- Ensures transparency and public accountability
- Promotes the embodiment of ICMA's commitment to openness in government
- Provides the organization with another opportunity to earn the public's trust

will ideally have been discussed as part of the employment agreement at the time of the manager's hiring. It is recommended that the initial formal evaluation not take place until the elected officials and the manager have worked together for a year; however, short, less formal evaluations are recommended on a quarterly basis. After that, at least one formal evaluation (still with quarterly informal evaluations) should be conducted per year, as longer intervals create a higher likelihood of miscommunication and surprises.

It is further recommended that the formal evaluation be scheduled during the least busy time of year for both the manager and the elected officials, avoiding both the budget preparation season (particularly if the manager's compensation is tied to the evaluation) and the election season (lest the manager's evaluation become an election issue). The scheduling should also allow adequate time for newly elected members of the board to become familiar with the manager's performance.

Relationship of Evaluation to Compensation

The primary purposes of a manager's performance evaluation are

1. To provide a tool for communication between the elected body and the manager
2. To provide an opportunity for the elected body to specifically indicate levels of satisfaction with the manager on mutually identified and defined performance priorities
3. To provide an opportunity for the manager to learn and improve
4. To allow for fair and equitable compensation adjustments based on a review of performance in achieving mutually identified priorities and on the elected body's level of satisfaction with the manager's overall performance.

Performance evaluations that are tied directly to compensation decisions are often distorted by those decisions and therefore result in less-than-honest communication between the elected body and the manager. This happens primarily because

1. Elected officials wishing to offer upward compensation adjustments may feel obliged to embellish the evaluation in a positive manner to justify the compensation decision to the public.
2. Elected officials not wishing to adjust compensation may feel obligated to justify their decision with negative comments about performance matters that actually are not a major concern to them.
3. The manager may be reluctant to seek full clarification on issues raised in the evaluation for fear it could result in a reconsideration of the compensa-

tion decision.

To avoid these distortions in communication, a balanced evaluation is necessary. That is, the evaluation should provide the opportunity for open communication and at the same time be used for compensation decisions related to identified performance achievement and corrective actions by the manager. To this end, a balanced evaluation would

1. Establish a clear set of performance expectations prior to the evaluation period.
2. Include a midterm evaluation without any consideration of compensation in order to focus on clarity of communication and performance to date. This evaluation would allow the manager to take steps to address areas of performance that were of concern to the elected body; it would also help to eliminate misunderstandings and miscommunication between the elected body and manager.
3. Use a full-term evaluation to evaluate the level of performance satisfaction for the entire performance period and thus provide the basis for a fair and equitable compensation decision.

Often, factors other than the performance evaluation form the basis of compensation decisions. These nonperformance considerations include

1. The economic climate of the community and region
2. The general status of compensation decisions in the private sector of the community
3. The compensation decisions for other employees of the local government
4. A general review of the competitive position of the local government in the local government's market area
5. A comparative salary review.

In summary, the performance evaluation of a professional manager can provide input into compensation decisions by the local elected body. However, the communication value of an evaluation is best served by a periodic evaluation not directly tied to compensation.

The Evaluation Results

The evaluation serves as the written, formal record of the conversation between the manager and elected body and consists of two important sections. The first section is the elected body's appraisal of the manager's performance with respect to the previously agreed-upon goals for the period under review as well as the general performance of the organization. The second section contains an agreed-upon list of the goals to be accomplished during the next appraisal period as well as any specific performance areas identified for improvement.

What Others Are Doing: Survey Results

In developing this handbook, the task force surveyed a sample of local government managers within the United States to obtain information on current evaluation practices. The key findings of the survey suggest that the evaluation process is a problem for a sizeable number of managers. Fortunately, though, most respondents did not report problems with their evaluations and took the time to comment on key aspects of successful appraisals. These comments provide clues to the common pitfalls related to the evaluation process and, more importantly, suggestions for improving the process. This section of the handbook describes these survey findings.

The most common challenges managers and elected bodies face with the evaluation process revolve around four general areas: failure to undertake evaluations, lack of a credible appraisal process, lack of knowledge of the council-manager form of government, and lack of communication. Each of these topics is briefly discussed below.

Failure to Undertake Evaluations

Employee appraisals are a standard feature of most workplaces. They serve as a means of enhancing employee performance as well as the overall effectiveness of the organization. Indeed, employee appraisals serve similar purposes as performance measures of programs and services. In both cases, we seek to identify opportunities for continual improvement. Yet people avoid completing performance appraisals, most likely because properly completed appraisals require time and effort. Other reasons for avoidance may include fear of criticism or the underlying stress associated with the appraisal process. Neglecting to undertake regular performance appraisals, however, can lead to underachievement. Worse yet, failing to complete appraisals on a regular basis can lead to unfounded assumptions that all is well when it is not. It is therefore important to establish a regular pattern of appraisals.

The survey responses identified two methods to help ensure that appraisals are conducted on a regular basis. The most common method is to place a require-

ment for an annual evaluation within the employment contract. The requirement should also specify a time of year—often a time that is less busy than others. The other method is to establish an appraisal time at a regularly scheduled annual meeting, such as a board retreat. But while this method achieves the goal of a scheduled appraisal, it is a less satisfactory approach because it may easily dilute the focus necessary for a good appraisal.

Lack of a Credible Evaluation Process

Another common challenge that survey respondents noted is the lack of a credible evaluation process. Problems include lack of structure, little to no preparation, and limited understanding of appraisals, both purpose and process. Process issues may be addressed through formal training of both the manager and council. Training can be accomplished through work sessions with human resource professionals. Another approach is to team up with CEOs and board members of locally-based institutions that have the same challenge and jointly sponsor training programs. Although not as effective as training, the use of standard evaluation forms, customized to a community's goals, is another way of ensuring a more structured process. Lastly, most managers who are satisfied with their appraisal processes noted that one member of the elected body, typically the mayor, provided active oversight of the process and kept discussions on point and on track.

Lack of Knowledge of the Council-Manager Form of Government

Lack of knowledge about the community's form of government and/or the day-to-day work of the manager is another factor that was cited as hindering quality appraisals. In this case, providing information as early as possible to newly elected officials about the form of government is recommended. This can include meeting with those officials and discussing the manager's duties and responsibilities as well as taking them on field visits. Another approach is to partner with the statewide municipal league and/or municipal clerks association to provide seminars on the form of government. Managers can also use opportunities such as community functions to inform the general public about its form of government. Some jurisdictions use the "policy governance" model, whereby the explicit roles of the manager, elected body, and other key staff such as attorney are clearly defined and documented. Removing misunderstandings and filling informational voids about the form of government can greatly improve appraisals because such efforts clarify the duties and responsibilities of both the manager and the board.

Lack of Communication

Perhaps the most important ingredient for successful appraisals is effective means of communications between manager and elected officials. As in any human relationship, effective communication is key to understanding and removing faulty assumptions. Achieving superior levels of communication requires active listening and regularity. And the benefits of such attention are high. For instance, survey respondents noting the most satisfaction with the appraisal process use a wide variety of means to regularly communicate with their elected bodies. They meet with elected officials on an individual basis and talked with them regularly via telephone. These same managers provide regular written and verbal reports, typically at each board meeting, that discuss the progress on council goals and objectives, strategic plans, and prior evaluation topics, as well as on operational and special topic issues. More detailed reports are provided on a quarterly basis. In addition, many managers meet with their elected bodies more than once a year with a single-issue focus to discuss progress, redefinition, and resourcing of established goals and objectives, strategic plans and efforts, etc. These additional meetings provide time to focus on progress and reduce the probability of end-of-year surprises.

Creating an effective organization takes time and effort. It also requires regular evaluation of services and operations. Evaluating employee performance, especially the manager's, is a vital element of successful organizations. Objective appraisals can be achieved with an accurate understanding of the manager's and elected officials' duties and responsibilities. Communicating regularly and effectively through a variety of means is a vital element of successful organizations and employee appraisals.[3]

Supplemental Approaches

The basic process for evaluations may be supplemented or expanded by using other tools, such as self-evaluations, periodic check-ins, 360-degree assessments, and conversation evaluations.

Self-Evaluations

It is recommended that a self-evaluation component be included in whatever type of evaluation is used. The purpose of a self-evaluation is for the manager to reflect upon his or her level of performance in achieving the organizational objectives, including both internal and external accomplishments and challenges in handling specific tasks and taking organizational direction. In a public setting, process and perception can be as important as outcomes, and managers should include all three in a self-evaluation. Thus, a manager's self-evaluation should make clear to elected officials the process by which the manager pursued individual goals, and the perceptions of both the manager and stakeholders of the manager's success or failure in meeting those goals. A manager's self-evaluation should be customized to the needs of each governmental entity.

Periodic Check-ins

There is a management philosophy that says there should be no surprises during an evaluation. Managers should be continually evaluating, assessing, measuring, and communicating with employees. Providing this type of continuous evaluation is a greater challenge, however, for elected boards because it requires the participation of all board members—since the manager reports to a group and not a single individual supervisor. If a process is in place for formal evaluations of the manager, such evaluations likely occur just once per year. The annual evaluation can be a stressful time for all involved, and it can also be a challenge to remember all that has occurred over the past year. Moreover, it is easy for annual assessments to skew toward recent events, challenges, and successes while deemphasizing activities that occurred nine or ten months ago. In reality, an elected body's perception of a manager's job performance is often viewed through lenses crafted by the "crisis of the day" or by how smoothly the last board meeting went. A more workable alternative is periodic check-ins.

Periodic check-ins, such as once per quarter, can help reduce the stress and minimize the surprises that can come when a manager's performance is evaluated only annually. A periodic review of a manager's work plan can help remind the elected body of the manager's long-term goals (as set by the organization) so that both parties can evaluate the manager's progress toward meeting those agreed-upon goals. If progress on the work plan has slowed down or other challenges have arisen along the way, a quarterly check-in offers the manager an opportunity to self-reflect on his or her performance as well as a forum to explain delays. It can also provide the manager the opportunity to remind the board of the 14 core areas noted in the ICMA Practices for Effective Local Government Leadership that are critical and are part of operating effectively on a day-to-day basis.

A periodic check-in on the manager's work plan is also important when faces on the elected board change, such as after an election, resignation, or reassignment of committees. By apprising the new board members of the manager's work plan, the manager is making certain that the new officials understand and are supportive of the projects or goals that he or she is working on.

360-Degree Assessments

Another form of appraisal process is the 360-degree assessment, which is sometimes referred to as a "self-development" tool. Generally speaking, the 360-degree assessment consists of an employee obtaining feedback from supervisors, subordinates, and peers. In this case, the manager completes a self-evaluation as well, with a sample of the workforce providing the subordinate feedback. In some instances, feedback is also obtained from those outside the organization, such as citizens who have frequently worked with the manager and use the jurisdiction's services regularly.

Some jurisdictions include the 360-degree assessment as part of the manager's appraisal process. The ICMA Voluntary Credentialing Program also uses this method as part of maintaining the credential; however, ICMA's assessments ask only behavioral questions. They do not cover progress toward organizational goals.

In most cases a 360-degree assessment is conducted digitally via the Internet. Raters are provided evaluation forms that are returned to an independent third party via the Internet in order to ensure anonymity and confidentiality.

One of the chief benefits of the 360-degree assessment process is that it provides feedback on competencies that are not regularly seen and therefore are not discussed in the typical performance appraisals. For instance, line staff will see behaviors that elected officials do not see and vice versa. Thus, a manager's performance may be improved because it is evaluated from several different perspectives. However, if the 360-degree assessment is used as part of the appraisal process, caution should be taken so that the evaluation doesn't become a measure of the manager's popularity with staff or the public. The manager works for the elected officials and should be evaluated by them on the basis of their stated expectations.

Conversation Evaluation System[4]

This version of an evaluation is a conversational session between the manager and the elected officials. For situations where there is tension among the elected officials or between the manager and the elected body, a facilitator can be used.

Step #1: Create Factors

The elected officials divide themselves into subgroups—normally an equal number of officials in each. The number of groups should be small, so for a board with 7 members, there would be a group of 3 people and a group of 4 people. With larger boards—say a county board with 20 people—there might be more groups. Where the situation involves a mayor and other elected officials, the mayor can move between the two groups or can be part of one group. The manager makes up his or her own group.

The elected official groups are given a single question that they can respond to with a number of factors: "What should members of the elected body expect of the manager?" The groups place their answers on a flipchart page. The manager also gets a question: "What do you think the elected body ought to expect of the manager?," to which he or she can also respond with a number of factors listed on a flipchart page.

Step #2: Reach Consensus on the Factors

The subgroups come back together and discuss each of the factors they listed. They work to combine their lists to arrive at between 10 and 15 factors.

Step #3: Assign Weight Values for the Factors

The group divides again, and the subgroups assign points to each of the factors from Step #2. They are given a total of 300 points and may assign from 10 to 30 points to each factor, but each factor must be given an even number of points. More points are given to those items that are a higher priority.

Step #4: Reach Consensus on Weight Values for the Factors

The subgroups come back together again with the point values they have from their discussions. During this conversation, the entire group tries to come to a consensus on how the point values from Step #3 should be allocated.

Step #5: Assign Rating to Each Factor for the Actual Performance of the Manager

The elected officials distribute points to each of the factors on a 1–5 scale, on which 5 is far exceeds expectations, 4 is exceeds expectations, 3 is achieves expectations, 2 is below expectations, and 1 is far below expectations. For example, a 30-point factor would have the following scale:

30–28	Far exceeds expectations (5)
28–26	Exceeds expectations (4)
26–24	Achieves expectations (3)
24–22	Below expectations (2)
22–20	Far below expectations (1)

These points are totaled, and then added to the points from the section below.

Step #6: Select Goals

The board—collectively and in consultation with the manager—comes up with the list of goals for the manager. Together they then assign another 100 points to the goals for the year. So, for example, 50 points could be assigned to Goal #1, Goal #2 could get 20 points, and Goal #3 could get 20 points, leaving 10 points for Goal #4.

The points from the above 5 steps would be added to the 100 points possible from step number 6 and would be totaled for an overall score using the chart below:

400–360	Far exceeds expectations
359–320	Exceeds expectations
319–280	Meets expectations
279–240	Below expectations
239–200	Far below expectations

In summary, this is a conversational evaluation. The evaluators review the factors each year and everybody owns them. From year to year the factors are revised as necessary to reflect the feelings of the elected body, which can change each year.

Data-gathering/Software Resources

Performance evaluation software can be an effective tool for the elected body to prepare manager evaluations. A wide variety of programs are available, enabling elected bodies to have as much or as little input into the rating categories as they wish. Some programs come with rating categories already provided for a variety of positions, some allow the customer to provide the categories, and some are a hybrid. This flexibility allows the elected officials to create a customized rating tool that works best for them.

Some evaluation software programs allow for multiple raters and some for a single rater. If the program only allows for a single rater, all elected officials convene to discuss each category, agree on the rating, and offer comments, while one elected official enters the rating and comments into the software program. In this case, there needs to be trust among the elected officials that all opinions are being heard and recorded. It is then important that all elected officials review the final draft and offer feedback before it is given to the manager.

If a multiple-rater system is used, elected officials will be completing the evaluation away from the rest of the elected body, so it is recommended that there be group discussion beforehand to ensure consistency in the meaning of the rating categories as in opinions about the manager's performance. The elected officials should also meet after they have entered their ratings because the evaluation *is* a group activity, not a multiple individual activity.

A word of warning regarding the multiple-rater system: It may be difficult to make sure that everyone fully participates in the process. Elected officials won't be informed by each other's comments, and consensus can be hard to achieve. Thus, if some elected officials provide more commentary than others, it could skew the overall evaluation.

Even with the use of performance evaluation software, an in-person conversation between the elected body and the manager is needed to review the evaluation and discuss the results.

As noted above, a wide variety of software programs are available, including

- Online survey tools such as Survey Monkey
- Performance evaluation software (SHRM can recommend)
- NeoGov online performance evaluation module

Conclusion

Communication. That is the essential element to maintaining a good relationship between an elected board and the appointed manager. Communication comes in many forms, but the board's evaluation of the manager is a formalized method of communication that should not be overlooked.

The task force that was formed to develop this handbook compiled and considered the best practices for manager evaluations. The group shared numerous ideas and learned a great deal from each other. The final product demonstrates that just as each manager and board are unique, so too must be the evaluation process for each manager. While there are common methods of evaluation, the tools and methods used to evaluate one manager in one community may not be appropriate for another manager in a neighboring community. To maximize legitimacy and effectiveness and to enhance communication, a manager's evaluation needs to be tailored to the issues and stated goals of the elected body.

That said, the task force also agreed that there are some standard elements—notably, the ICMA Practices for Effective Local Government Leadership—that would enhance any evaluation. These 14 core competencies are the framework for what a manager does on a day-to-day basis, and they warrant acknowledgment in the evaluation process.

Finally, while this handbook offers a variety of ideas on the manager evaluation process, the most important takeaway is that the evaluation must take place and that the process must be mutually agreed upon. There are many ways to get this done, but the manager and the board both deserve the structured communication that the evaluation provides.

Sample Evaluation Forms for Local Government CAOs

- Sample Appraisal of Performance
- Sample Manager Evaluation Form
- Sample Manager Performance Evaluation
- Sample County Administrator Performance Evaluation

Other Resources

- ICMA Practices for Effective Local Government Leadership
- Recruitment Guidelines for Selecting a Local Government Administrator
- ICMA Model Employment Agreement
- ICMA Code of Ethics with Guidelines

Notes

1 Adapted from City Manager Performance Review, Successful Evaluation Tips, City of Mountlake Terrace, WA

2 Integrity is not simply concerned with whether the manager's behavior is legal; it also addresses the issue of personal and professional ethics: "Demonstrating fairness, honesty, and ethical and legal awareness in personal and professional relationships and activities." ICMA members agree to abide by the ICMA Code of Ethics.

3 Perkins, Jan. "Case Study: It's (Gulp) Evaluation Time." *PM*, July 2005. http://icma.org/Documents/Document/Document/3602

4 Adapted and used with permission from Lewis Bender, PhD, Professor Emeritus, Southern Illinois University, Edwardsville, lewbender@aol.com



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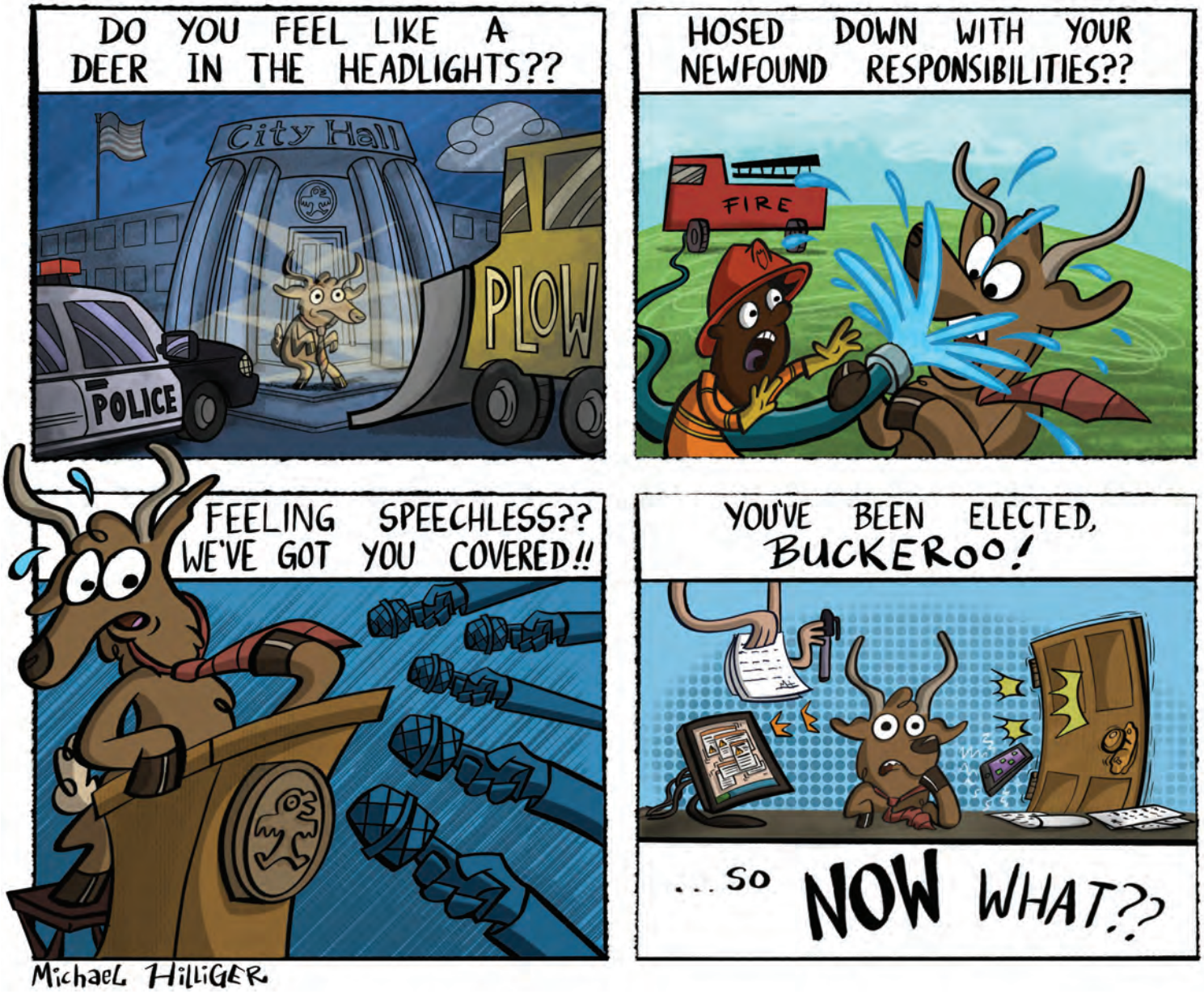
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Newly Elected Officials Guide 2023

Keep This Magazine! 3
#1: Resources 4
#2: Wisconsin Values Transparency! 6
#3: Different Munis, Different Roles 7
#4: Good Governance 8
#5: Ethics and Conflicts of Interest 9
#6: What Hat am I Wearing? 11
#7: All About Boards and Commissions 12
#8: Social Media - Think Before You Post 13
#9: Division of Roles Between Elected Officials and Staff 15
#10: Planning for Tomorrow 17
#11: Municipal Finance, Budgeting, and Taxation 18
#12: Robert's Rules of Order 20
#13: Ordinances, Resolutions, and Orders, OH MY! 21
#14: Land Use Planning and Zoning 23
#15: Communicating With Media, Peers, and the Public 25
#16: Getting Started 27
#17: Getting Sued 28
#18: First-Year Takeaways From Past Officials 29
Civility Can Boost Your Professional Success! 31

On The Cover:

Michael Hilliger is a lifelong entertainment creator, with a specialization in animation. He currently holds the position of Lead Animator for an upcoming series on AppleTV+ and was previously a Media Producer for the City of Whitewater.

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KEEP THIS MAGAZINE!

This month's issue of *The Municipality* looks different. That's not an accident. The monthly theme of *The Municipality* is often based on what's going on in local government at that time of year. Our June issue has always been dedicated to newly elected officials; it's written with an eye toward what sort of "nuts and bolts" information you need as you step into this crazy new venture called Village Trustee, Alder, Mayor, or Village President.

This issue of *The Municipality* is intended to be a long-term reference. It's a how-to instruction book. We polled experienced city and village leaders, asking them to list the essential things leaders need to know, especially during their first year in office. Then we boiled those essentials down to 18 short lessons in local legislating. We have presented them here for you in short articles that you can read now, or keep and refer to later.

If we did this right, you'll want to keep coming back to this issue. "What was that thing about budgeting?" (See page 18) "Open records request? I know I read about that somewhere." (See page 6). And so on.

Pretty soon you'll be drowning in information. The Planning Commission recommendations seem to be stacked to the ceiling, and who knew there were so many specifications for a dump truck?! How can you keep up? Do they ever shut off that fire hose torrent of facts and figures?!

Unfortunately, no. Even the smallest city or village is a complicated operation. And you are one of its leaders; people are relying on you to listen to the facts, weigh the opinions, and make the decision that is in your community's best interests, for tomorrow night and for decades to come. It's a big responsibility.

The League's job is to help you do your job. We can't make the decisions for you, but we can point you to resources that will help you make those decisions. Thank you for stepping up to the plate to help your community, and let us know how we can help.

The League appreciates the support of the following Business Leaders

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Tip #1: Resources

League Website

A library, packed with everything helpful to our members and open 24/7/365

https://www.lwm-info.org



Available League Resources





Check 'em out

Conferences and Workshops:

- Local Government 101 – webinar and in person
- The League's Annual Conference: October 18-20, Green Bay KI Center
- Chief Executives Workshop – mayors, village presidents, administrators, and managers: August 23-25, Elkhart Lake, The Osthoff

E-Newsletters:

Subscribe online

Publications:

- Powers and Duties of Village Presidents
- Powers and Duties of Mayors
- The Conduct of Common Council Meetings
- The Conduct of Village Board Meetings

Monthly Member Roundtable

Zoom, 2nd Tuesday of each month noon-1:00 pm

The Municipality Monthly Magazine

Also available online!



RESOURCES

State Agency Information:

Wisconsin Department of Administration (DOA) - Grants CDBG, disaster recovery, economic development, planning, public facilities, small cities housing, and revolving loan program

Municipal Data System:
https://mds.wi.gov/Home

Wisconsin Economic Development Corporation - Grants downtown development, and economic development resources

Wisconsin Department of Natural Resources - Grants

Public Service Commission - Regulatory agency of public utilities

Department of Transportation - Air, rail, and water transportation, and bicycle and pedestrian facilities. Grants and limited planning resources





Wisconsin's Regional Planning Commissions:

Office of Rural Prosperity:
ruralwi.com/resources
Grant resources

National League of Cities:
nlc.org

UW-Extension, Local Government Center:
lgc.uwex.edu
Training and education

Wisconsin Department of Justice Office of Open Government:
https://www.doj.state.wi.us/office-open-government/office-open-government

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Tip #2: Wisconsin Values Transparency!



Wisconsin's strong tradition of open government and transparency is reflected in its open meetings and public records laws. These laws play an important role in ensuring that government officials are accountable to the public they serve, and that the public has the information it needs to make informed decisions in a representative democracy. Both laws contain strong policy declarations favoring public access but recognize that complete access is not always appropriate. Thus, both laws contain limited exceptions.

Wisconsin's open meetings law (OML) entitles the public to the "fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business." To that end, the law requires that all meetings of governmental bodies (e.g., common councils, village boards, statutory boards and commissions, and committees) be preceded by at least 24-hours public notice, be held in places reasonably accessible to the public, and always be held in open session unless a specific statutory exemption (based on the subject matter to be discussed) authorizes meeting in closed session.

The Wisconsin Department of Justice (DOJ) publishes a free OML compliance guide explaining the law in detail. It can be accessed at the following link: **https://www.doj.state.wi.us/office-open-government/open-government-law-and-compliance-guides**

Wisconsin's public records law entitles the public to "the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them." To that end, the law grants the public the right to access government records, including records of elected officials, subject to certain limited exceptions. The law is construed with a strong presumption favoring public access and declares that denial of access is generally contrary to the public interest. "Record" is defined broadly and includes documents, electronic data, and other materials. The law requires governmental authorities, including elected officials, to respond to requests "as soon as practicable and without delay." What is reasonable will depend on various factors such as staff resources and the content of the request, but DOJ policy views 10 working days as generally a reasonable time frame for responding to a simple request. Requesters can be charged actual, necessary, and direct costs for locating and copying records, but not for any redaction required before release.

Subject matter, and not location, determines whether something is a record. This means that text messages and emails sent from personal devices or accounts may still be considered a record subject to disclosure if the subject matter contemplates municipal business.

DOJ publishes a free public records compliance guide that explains the law in detail. It can be accessed at the following link: **https://www.doj.state.wi.us/office-open-government/open-government-law-and-compliance-guides**

Violations of Wisconsin's Open Meetings and Public Records Laws

Municipal officials are responsible for understanding and complying with these open government laws. Violations of these laws erode public trust in local government and can result in significant legal and financial consequences. OML violations can result in personal forfeitures and ignoring or improperly denying public records requests can be very costly, resulting in imposition of forfeitures and/or punitive damages and, in certain instances, an award of attorneys fees to the requester.



Tip #3 – Different Munis, Different Roles

As an alder or a village trustee, you are a local legislator. Your job is to consider and establish policies, budgets, and broad priorities for your city or village. Many times, you will do that by adopting ordinances or resolutions. Your power is your vote. You are one of the five, seven, or nine elected members. On your own, you don't have any power. You can't order the police to stop a certain speeder or the public works department to plow a certain street. But working together with others on the council or board you can build your community's future.

The League serves the cities and villages in Wisconsin. Cities and villages are different from towns in one major way: they have "Home Rule" powers allowing them to take any action to serve their citizens, provided that action is not contrary to an existing state law. There is one other significant difference: a city or village can annex or control the use of adjacent property from the territory of a town, while a town cannot. Framers of Wisconsin's system of government perceived cities (and later villages) as the central hub of life, commerce, and society and the state's system of land use laws is built on this "from the core outward" design. The question of who "runs" a city or village is quite complicated. There are basic models for both cities and villages in state law, but an individual municipality can tweak the model based on the wishes of local leaders and their citizens.

Most cities in Wisconsin elect a person who has the title of mayor and who serves as the chief executive. In those cities, the mayor also acts as the presiding officer of the common council. The mayor is responsible for the day-to-day operations of the city, including hiring and managing key staff. Wisconsin's basic model does not follow what is sometimes referred to as a "strong mayor" form of government but cities can choose to centralize power in the office of the chief executive.

About 10 cities have chosen a manager form of local government which puts the chief executive function in a city manager. Unlike the mayor, a manager is appointed by the common council; he or she is not elected. Most manager-led cities do not have an elected mayor and instead have the council president preside at council meetings and represent the city at important ceremonial or other civic events and initiatives. Still other cities have a mayor and have hired an administrator to oversee day-to-day operational duties. The relationship between the elected mayor, appointed administrator, and the common council is established by



ordinance, and can vary according to local wishes. It is also possible for a city to change its form of government from one type to another.

Villages have a simpler governmental structure, although local variations can take it in a number of different directions. There is no elected chief executive in a village. The village president has some administrative duties, but these are limited. The general rule of a village is that the president is also a trustee and executive power is shared equally among the village trustees.

A growing number of villages have hired an administrator to carry out some delegated executive functions and provide administrative oversight. Nine have decided to follow the village manager form of government. Administrators and managers are not the same. A manager is a professionally trained chief executive selected by the governing body. Manager is a statutory position and changes the form of government whereas an administrator is not a statutory position. The title of administrator may carry far more authority in one village than in another, depending upon the local ordinances.

Get to know how your local municipal government works. Get to know how it all fits together. Learn where the lines of authority lie in your community and work collaboratively to move forward.

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Tip #4: Good Governance

ESPECIALLY SINCE DOING SO VIOLATES THE OPEN MEETINGS LAW

New leaders are often intimidated or confused by parliamentary procedure; how to make motions, offer amendments, call the question, and so on. The most recent version of *Roberts Rules of Order Newly Revised* (12th edition) is 806 pages long. But getting things done in a village board or city council meeting isn't as complicated as it looks. It comes down to the basics of human interaction: Be fair, be civil, take turns, and stick to the subject.

Be fair.

By law and by common sense, everyone on your board or council is an equal. No matter how loud or quiet, no matter the background or personal agendas, you are each entitled to the same thing: one voice and one vote. Speak your mind, and listen to your fellows. Instead of trying to score debating points, look for ways to collaborate and merge your ideas. Weigh the facts, consider opinions (especially those different from your own), and choose the best decision for your community, even if it wasn't yours.

Be civil.

If people never disagreed, city councils would only have one member. Disagreement is why democracy was invented; it's how we work through disagreements to find solutions. It's a way to take two different ideas and forge a third solution; usually one that is better than the first two. But for democracy to function, it requires civility. Shouting, insults, demeaning behavior, and parliamentary gameplay have no place in local government. Parliamentary procedure provides us with a fair and neutral process to allow governing bodies to get past the emotions of the moment. Furthermore, the mayor or village president should call an immediate halt and rule bad behavior "out of order." But more importantly, you have a responsibility not to engage in it. Ever. Period.

Take turns.

Each governing body member has a right and a responsibility to participate in debates. The presiding officer should give everyone a reasonably-equal opportunity to speak. You can help by avoiding the temptation to dominate a discussion, even if you have more knowledge on a particular issue than others. And, by the way, be brief.

Stick to the agenda.

If you want to make a local government meeting last into the wee hours, just start wandering off the agenda. A simple decision about whether to purchase the red truck or the green one will devolve into a debate about global warming, speed limits, and municipal levy limits. Discussion and debate is healthy, but when that discussion moves away from what's on the agenda, the leader of the meeting should bring it back onto the subject. Stick to the subject and respectfully remind your fellows to do the same.

Even a good discussion can get sidetracked when discussion triggers a thought about another topic. Rather than bring it up and derail the first item, make a note of it and bring it up at the appropriate time. Otherwise, you and your fellow council members will lose track of whether you're on a motion, an amendment, or taking public comments. Taking the time to proceed slowly and deliberately through an agenda will save hours of needless "Where were we?" starts and restarts. As they say in racing, "slow is smooth and smooth is fast."

RESOURCES:



So You've Been Elected: Practical Information for People Elected to Office in Wisconsin Cities and Villages
https://lwm-info.org/763/Order-Handbooks-Annual-Publications

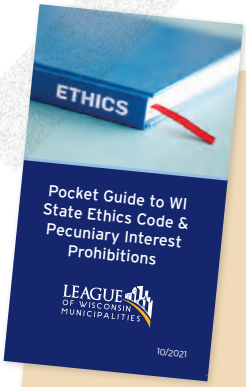


The League's "For the Good of the Order" column from *The Municipality:*
https://www.lwm-info.org/1504/Parliamentary-Procedure



The League's Legal FAQs:
https://www.lwm-info.org/973/Parliamentary-Procedure

Tip #5: Ethics and Conflicts of Interest



FREE BY REQUEST!

Wisconsin takes pride in its ethics laws and high ethical standards of conduct for local public officials. One of the first and most important tasks for you as a new official is to become thoroughly informed about them. All municipal officials must abide by these laws, which aim to prevent favoritism in government decision-making and ensure that local public officials are serving the public rather than reaping personal benefits from their positions.

State Ethics Code for Local Public Officials – Wis. Stat. § 19.59

The state ethics code establishes minimum standards of ethical conduct that prohibit local public officials from using their office to benefit themselves, their immediate families, or organizations officials are associated with. This means that elected officials may not vote, or otherwise use their office, on a matter that would have a personal benefit or financial impact on them, members of their immediate family, or an organization they're associated with. This prohibition does not include matters that have a general impact, such as taxes or utility rates. Local public officials are also prohibited from offering or receiving anything of value that could reasonably be considered to influence an official's vote or judgment or be a reward for official action or inaction. The statutes don't define "anything of value," but it is broadly construed. Officials required to abstain from voting in a matter due to a conflict of interest should not participate in any discussion or deliberation concerning the matter. Finally, municipalities may enact local ethics codes that are more stringent than the state ethics code. Local officials should be familiar with the local ethics code if their municipality has one.

No Private Financial Interests in Public Contracts – Wis. Stat. § 946.13

With limited exceptions, Wisconsin law prohibits public officials and employees from having a private financial interest in a public contract. This includes contracts for employment, sales, leases, and purchases. Public officials and employees should ensure they understand and avoid violating this law for two important reasons. First, it is a felony criminal statute. Second, it is a strict liability statute meaning one does not have to intentionally or knowingly violate the statute to be found guilty; accidental violations may still result in conviction. The law establishes two primary prohibitions. The first, found in Wis. Stat. § 946.13(1)(a), prohibits officials and employees, in their private capacity, from negotiating, bidding for, or entering into a public contract in which the official or employee has a direct or indirect financial interest if the official or employee is authorized or required by law to participate, in their official capacity, in the making of that contract. Abstention from voting does not prevent a violation because the important part is whether the person is authorized to participate in the vote, not whether they actually do so. The second, found in Wis. Stat. § 946.13(1)(b), prohibits officials and employees from participating in the making of a contract in their official capacity or performing some function requiring the exercise of discretion regarding a municipal contract if the official or employee has a direct or indirect financial interest in the contract. This is a prohibition against taking official action, so abstaining from voting or otherwise participating or exercising discretion regarding the contract will prevent a violation.

No Special Privileges

Local public officials must pay the same fees for permits or services as any other resident. They cannot receive or give any special privileges, discounts, or exemptions or use municipal resources for private purposes. For example, a city official cannot borrow a city pickup truck for the weekend or arrange for a friend or relative to use it.

No Disclosure of Confidential Information

Local officials should not disclose confidential information and may not use it for personal gain. Additionally, while there is no express statutory prohibition against doing so, officials should not disclose information discussed in closed sessions meetings of governmental bodies.

Additional Resources:

Wisconsin Ethics Commission: **https://ethics.wi.gov/pages/home.aspx**

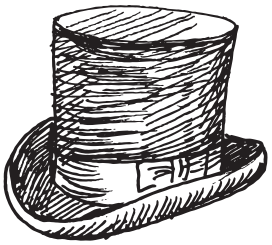
The League's Pecuniary Interest FAQs: **https://lwm-info.org/1045/Pecuniary-Interest**

The League's ***Pocket Guide to WI State Ethics Code & Pecuniary Interest Prohibitions***

League Legal Comments: **Pecuniary Interest 394, 395 and 396**



Tip #6: What Hat am I Wearing?



Local officials are often required to act in different capacities and wear different hats depending on what capacity they are acting in. It's important that local officials understand what hat they are wearing so they can use that knowledge to inform how they conduct themselves. For elected officials, the hat most frequently worn is the policymaking hat, worn when the official is acting in a legislative capacity. But elected officials, and appointed officials, are sometimes called upon to act in a quasi-judicial capacity. When acting in a quasi-judicial capacity, officials should swap their policymaking hat for a hat (or wig) more akin to what a judge would wear.

How do I know if I am acting in a legislative or quasi-judicial capacity?

Legislative decisions create new (or modify existing) laws or policies for future application. In contrast, quasi-judicial decisions involve applying existing policies to facts presented. For example, creating or modifying a zoning code is legislative in nature. The zoning code determines what uses are permitted (as of right or conditionally) or prohibited in a particular zoning district. An example of a quasi-judicial decision would be, after the code's enactment, determining whether an application for a conditional use permit should be granted or denied. Additional examples of legislative and quasi-judicial matters are provided below:

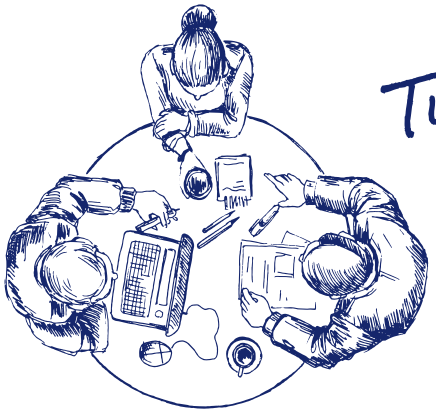
- **Legislative:**
  - Budgets
  - Enactment of ordinances
  - Adoption of policies
- **Quasi-judicial:**
  - Revocation/suspension of an alcohol license
  - Appeal of tax assessment to Board of Review
  - Variance application to Zoning Board of Appeals
  - Disciplinary matter before Police and Fire Commission

Why does it matter if something is legislative or quasi-judicial?

Whether a decision is legislative or quasi-judicial in nature affects how the decision can be made, and how the decision will be reviewed it if it is challenged.

- **Legislative:** When elected officials make legislative decisions, they are making decisions that will affect the municipality going forward. They have broad latitude to consider community sentiment, what is good and desirable for the community, and any other factors they think are important. Electors elect legislators in large part because of their viewpoints and politics so there is no need for legislators to be neutral or impartial. Generally speaking, courts review legislative decisions with great deference to the legislators.
- **Quasi-judicial:** Quasi-judicial decisions apply existing law or an existing framework to a particular set of facts presented or demonstrated. Decisions in this arena more closely resemble judicial decisions and, accordingly, some of the safeguards found in courts are applicable and should be observed, including the following:
  - Decisions should be confined to the record created. Body members should not conduct independent investigations, seek opinions on the matter, or engage in ex parte (one-sided) conversations.
  - Elements of due process should be afforded the applicant (e.g., notice, opportunity to be heard, and a decision made by an impartial decision maker who listens with an open mind and decides the case based on the law and the legally significant facts demonstrated).

Quasi-judicial decisions are typically reviewed based on the record created below with the court looking to see whether the body (1) kept within its jurisdiction, (2) whether it proceeded on a correct theory of law, (3) whether its action was arbitrary, oppressive, or unreasonable and represented its will and not its judgment, and (4) whether the evidence was such that the body might reasonably make the order or determination in question.



Tip #7: All About Boards and Commissions

The state statutes provide for numerous municipal boards and commissions. Several are mandatory while others are optional. Optional boards and commissions may be created at the discretion of the municipal governing body or must be created when the municipality chooses to engage in a particular activity. Typically, boards and commissions are established to supervise and manage special municipal activities. The membership, organization, and powers of municipal boards and commissions are set forth in the statutes authorizing their existence or creation.

The duties and powers of most city and village boards and commissions may be taken over and exercised directly by the governing body or a governing body committee. Notable exceptions to this rule are the board of police and fire commissioners, whose functions are set forth in §§ 61.65 and 62.13; the board of review, §§ 70.46 and 70.47; the board of zoning appeals, §§ 61.35 and 62.23(7)(e); board of canvassers, §§ 7.30(4) and 7.37(12); civil service board or commission, if established, § 66.0509; housing authority board of commissioners, if established, § 66.1201; and the library board, § 43.54.

Municipalities are not limited to statutory boards and commissions. Municipalities may also establish, by ordinance, other boards and commissions not contemplated by the statutes which are designed to address unique local concerns and interests.

1. Mandatory municipal boards and commissions

- Board of Police and Fire Commissioners – Wis. Stat. §§ 62.13 and 61.65(3g)(b) (Cities having a population of 4,000 and villages with a population over 5,500).
- Board of Review – § 70.46.
- Zoning Board of Appeals – (Mandatory for any municipalities that have enacted zoning regulations.) § 62.23(7)(e).
- Board of Election Officials – § 7.30(4).
- Local Board of Health – (Required in cities and villages located in counties with population of 500,000 or more.) § 251.02(2).
- Library Board – § 43.58. (Mandatory for municipalities that establish public libraries.)

2. Optional municipal boards and commissions

- Plan Commission – Wis. Stat. § 62.23(1).
- Board of Utility Commissioners – § 66.0805.
- Board of Park Commissioners – § 27.08.
- Board of Public Works – § 62.14(1).
- Museum Board – §§ 229.12 and 229.19.
- Ethics Board – § 19.59(3)(d).
- Board of Estimates – § 65.01 and 65.02(3).
- Airport Commission – § 114.14(2).
- Board of Harbor Commissioners – § 30.37.
- Civil Service Commission – § 66.0509(4).
- Board of Public Land Commissioners – § 27.11.
- Housing Authority Board of Commissioners – § 66.1201(5).
- Redevelopment Board of Commissioners – § 66.1333(3).
- Local Exposition District – § 229.42.

For more information, see the League's *Handbook for Wisconsin Municipal Officials* – pages 49-50.

Tip #8: Social Media – Think Before You Post

Social media is a powerful tool for communicating with constituents. It can also be an aid to improve culture or build trust within the community. While social media offers several benefits, government use of social media is subject to First Amendment freedom of speech protections and proper use is critical to avoid exposure to liability. Here are a few notes and things to think about when using social media in your organization.

- The First Amendment prohibits the government, including individual government actors, from abridging the freedom of speech. The government's ability to regulate speech depends on what type of "forum" it occurs in.
  - Traditional public forums – places that have long been associated with expressive activity, such as streets and parks.
  - Designated public forums – places that are not traditionally open for expressive activity, but that the government has opened for expressive activity. A limited public forum is a type of designated forum where the government reserves the forum for certain groups or topics.
  - Non-public forums – all other types of government, or private, property that have not been opened to expressive activity.
- Generally, any content-based restriction on speech will likely be found unconstitutional.
- Hiding/deleting comments and blocking certain users are typically challenged as improper restrictions on speech.
- However, if an account is created as a limited public forum, content-based regulation of speech is allowed if such regulation is viewpoint neutral and is reasonable in light of the limited public forum's purpose.
- Creating a social media comments policy for your account/page is one way to establish a limited public forum.
  - Within certain limitations, a social media comments policy can identify certain topics that may or may not be discussed.
  - For example, a comments policy can limit comments and replies to the subject matter of the original post or prohibit unprotected speech such as true threats or defamation.
- Depending on the circumstances, even an official's personal account may be subject to the First Amendment if they use the account for official purposes.
- Individual officials wanting their account to remain personal need to remember to keep it separate from their official government role.

View the article Government Use of Social Media and see the League legal comment for more information: Miscellaneous 24

Considerations for Social Media Policies and Trainings

→ Determine use, behavior, and management of social media.

→ Prepare for non-compliance and how to react by connecting the policy to work/office rules.

→ Address specific behaviors inherent in social networking.

→ Provide social media training to those who will use social media.

→ For those employees maintaining organization's social media accounts discuss appropriate use for employees and the public.

→ It is good practice to keep work and private opinions, comments, and friendships separate.

→ Content should be related to a mission, service, goal, or objective of the organization.

Personal Social Media Accounts

→ Content posted on a personal social media account may be perceived as official business. It is highly suggested not to mix the two or conduct official business on a personal account.

→ Government IDs, passwords, emails, etc. should not be used with personal accounts.

→ Social media is not for discussion of workplace issues or concerns of employees and their employment.

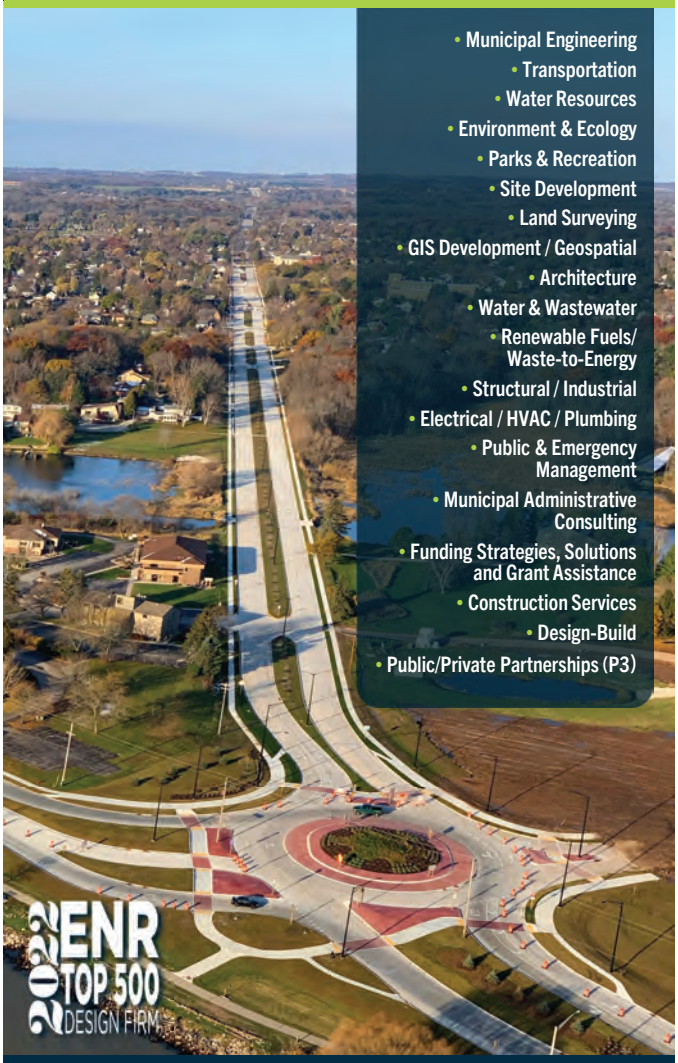
Public Use on Government Social Media

→ There should not be expectations of privacy and confidentiality on an organization's account.

→ All postings to government social media accounts must be retained by the organization and are subject to public records and disclosure laws.

-Contributions from the City of West Allis Social Media Brief

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Tip #9:

Division of Roles Between elected officials and Staff

Municipal elected officials and staff should understand and respect their individual roles and boundaries regarding policy development and implementation. In general, elected officials collectively decide policy issues for the municipality. A key word in the prior sentence is "collectively." Individual trustees and alderpersons are part of a multi-member governing body that collectively makes policy decisions for the municipality. Individual alderpersons and trustees have no power to instruct, order, or give direction to staff unless the governing body has delegated such authority to the individual.

Governing-body-approved policy directives are typically communicated to the mayor, municipal manager, administrator, or department heads, who then provide appropriate direction to staff to follow up. Staff are responsible for implementing the governing body's policy direction.

While mayors, city and village managers, and municipal administrators often prepare and propose policies, their basic authority is to carry out the governing body's directives and to implement the policy adopted by councils and village boards. They can have a strong influence on the policymaking process. For example, they often propose budgets, oversee the studies and analyses carried out by staff, and make policy recommendations to governing bodies.

Policymaking activities typically performed by municipal governing bodies include the development of a vision for the community, the adoption of community goals and objectives, the adoption of comprehensive plans, decisions about which programs and services will be provided by the local government, the adoption of budgets and capital improvement plans, and the passage of health, safety, and general welfare ordinances. Public policy determines what services will be provided to residents, the level of those services, and how those services will be paid for.

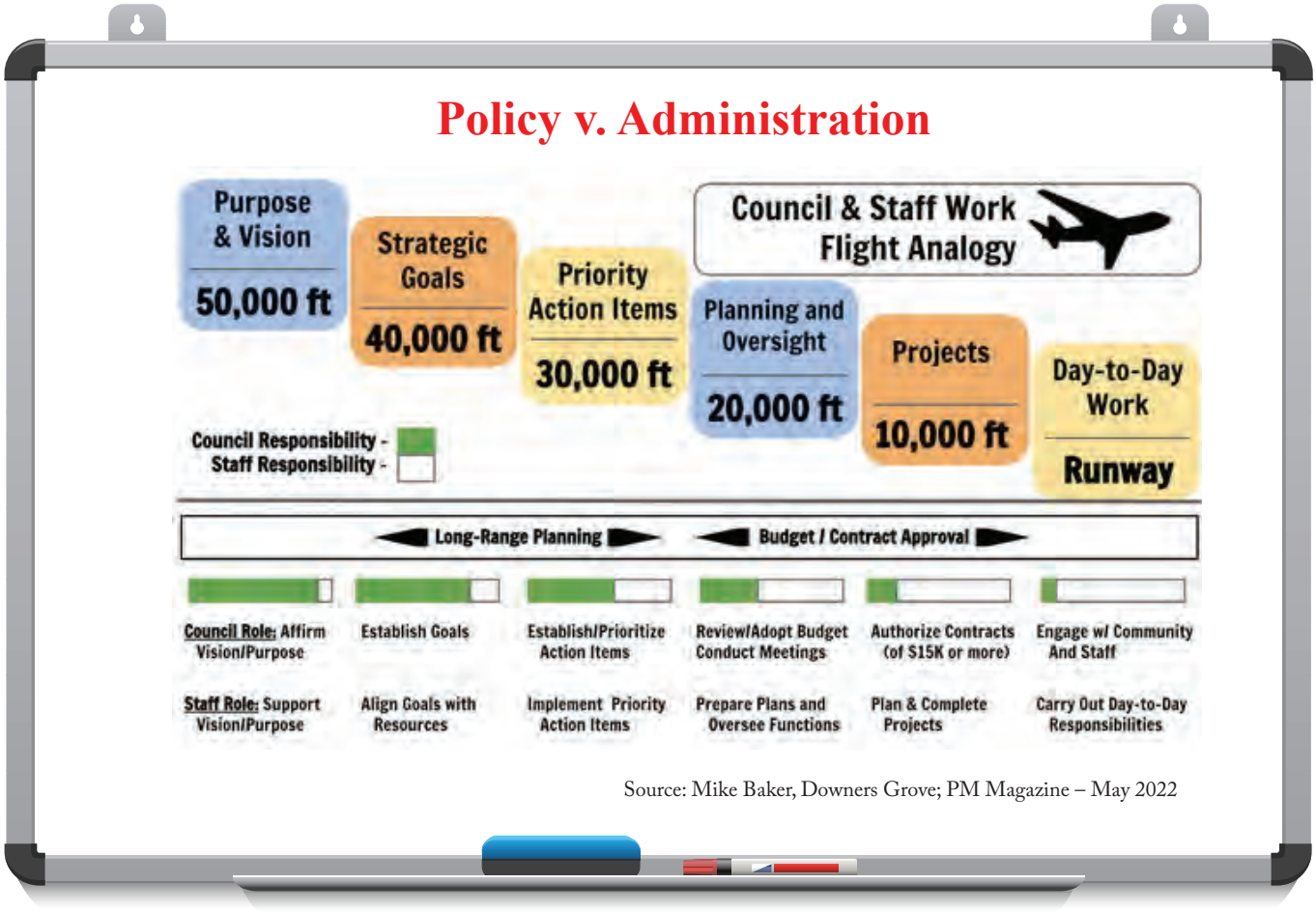
For local governments to function well, elected officials need to receive high-quality policy advice from the administrator or manager and other staff.

Likewise, while elected officials should not be engaged in the day-to-day operations of government, their oversight responsibilities and role in establishing the vision for the community are critical for the success of the local government.

As the graphic on the next page illustrates, there will always be some overlap between policy and administration. The division between policy formulation and implementation is not always clear or precise. Therefore, open communication between local elected officials and staff is critical. It is important for executives, governing body members, and key staff to develop ways to communicate and work together effectively.

A few best practices to guide elected officials working with staff:

- Make it a point to get to know and trust key staff.
- Competent staff can be a tremendous help in developing policy ideas, structuring good processes, and generally keeping elected officials out of trouble.
- Treat staff respectfully, even when you are disappointed or frustrated with performance.
- As a general matter, asking staff for special favors - even those that do not benefit you personally - puts staff in an awkward situation. Staff generally are dedicated to their jobs and want to work with the elected officials to improve their communities. Forcing them to choose between doing something an elected official wants them to do and established municipal practices, protocols, priorities, and policy erodes that trust.
- While it is appropriate for governing body members to ask staff questions or request information, frequent or time-consuming inquiries unreasonably take staff away from their day-to-day duties. Such inquiries may be better channeled through the mayor, administrator, or a department head.



Source: Mike Baker, Downers Grove; PM Magazine – May 2022

Local ordinances or policies may expressly prohibit governing body members from interfering with or harassing staff, but they are rare. The City of Madison, for example, recently adopted a policy that includes the following language:

> *Council members shall not attempt to unethically influence or coerce City staff concerning either their actions or recommendations to Council about personnel, purchasing, awarding contracts, selection of consultants, processing of development applications, or the granting of City licenses and permits.*



Resources for more information:

- Local Government Policy Making Process, Municipal Research & Services Center of Washington
- Everyday Ethics for Local Officials – Elected Official Direction to Staff, California Local Government Institute

Tip #10: Planning for tomorrow

Cities and villages are long-term ventures. Regardless of your municipality's date of founding, it will be there for generations. You have a duty to make decisions with future generations in mind.

Building on the past – Most cities and villages have been around for decades or more. Even the newest villages were settled many years ago as a town. You have existing land use patterns, a downtown, and local landmarks, and there's often a local way of doing things. All that should not be forgotten in strategic and comprehensive plans. You want to plan for the future, but don't forget the past.

Planning for the future – When you're making a decision, think about the long-term impact. Some of Wisconsin's first cultures ascribe to a seven-generations philosophy. In decisions about a land use or social matter they ask what impact it will have seven generations from now. That's not a bad idea for local government officials. After all, it's a pretty sure bet that your city or village will be here when your great-great-great-great-grandchildren are raising their family or operating their business. Does it make sense to have that highway built here or there? Not all decisions require that long viewpoint, but many would benefit from it.

Budgeting – One of your primary duties each year will be adopting the budget and accompanying tax levy. All cities and villages in Wisconsin adopt a budget based on a calendar year. It's your short-term plan to progress toward long-term goals. Budgets can be straightforward or complex. The process may vary, but here are a few universal rules:

- There are always more needs than resources.
- Deferred maintenance always costs more than addressing problems now.
- You can't borrow your way to a balanced budget. (If you're in a hole, stop digging!)
- One-time money should pay for one-time expenses.

Capital budgets – All larger municipalities and many smaller ones have a capital budget that is separate from the annual operating budget. The capital budget is a long-range planning tool for the "hardware" that facilitates serving citizens reliably. A capital budget is a critical tool for managing city or village borrowing; the timing of which often dictates how much roadwork can be done annually, when trucks can be replaced (or not), and the right time to move forward with a new library or fire station.

Other governments – No local government is self-sufficient. You need your neighbors and they need you. You are within a county and county government impacts municipal government. Local governments are subject to state and federal laws, and the decisions of those governments affect your community. You need to understand the interconnections and make them stronger.

If your area hosts regional meetings with other local leaders, attend and build intergovernmental connections. You never know when it will pay off in the form of a new business or opportunity for service sharing.

The League is always looking for local elected officials to participate in state-level lobbying efforts. Nothing is more compelling than a group of local elected leaders meeting with their state representative to talk about shared revenue, transportation aids, or proposed new environmental regulations.

REFERENCES

So You've Been Elected booklet for local elected officials:
https://lwm-info.org/763/Order-Handbooks-Annual-Publications



Liz Farmer's "7 Deadly Sins of Public Finance" from governing.com.
https://www.governing.com/finance101/gov-deadly-public-finance-sins.html





Tip #11: Municipal Finance, Budgeting, and Taxation

Most municipal governing body policy decisions are tied to money in some way, but especially the following items: approving and amending the annual budget, levying taxes, approving the paying of claims or bills submitted to the city or village, entering into contracts, and borrowing funds.

A few of these municipal fiscal issues are discussed in more detail below:

A. Budgeting. Annually, municipal governing bodies must allocate scarce resources to programs, services, and capital assets through the budget process. It is one of the most important activities undertaken by alderpersons and trustees.

- All Wisconsin municipalities operate on a calendar fiscal year.
- Municipalities typically pass their annual budget in late November to enable property tax bills to be sent out in December.
- Prior to adoption, a municipality must publish a budget summary and conduct a public hearing allowing for public comment.
- The process for developing an annual budget commences months before November.
- State law is silent about how a municipality is to develop a proposed budget. The absence of a statutorily prescribed process for preparing a budget leaves substantial discretion to local governments in determining their own budgeting procedures. Many municipalities have developed formal procedures set out in ordinances or resolutions and in guidelines furnished to department heads. Often, the mayor, manager, administrator, or clerk is initially responsible for preparing a budget for the governing body to consider.
- A two-thirds vote of the entire governing body is required to change an adopted budget. Notice of any budget changes must be published on the municipality's website or in the municipality's official newspaper within 15 days after the change is made.

B. Sources of Local Revenues. Wisconsin municipalities finance public services and capital assets through a combination of property taxes, shared revenue and other state aids, special assessments, user fees, license and permit fees, and borrowing. Property taxes, public charges for services, and intergovernmental revenues like shared revenue and transportation aids, comprised 60% or more of total revenues for cities and villages in 2019. Taxes (almost exclusively property taxes) represented the largest revenue source for a community's general fund, 36.7% for villages, and 30.8% for cities in 2019. Public charges for services were the second largest revenue source for villages (17.1%) and cities (15.7%). This includes fees charged for services, such as parking, garbage collection, parks and recreation, and golf. Intergovernmental revenues were the third largest source of revenues for villages (9.3%) and cities (14.5%). This includes direct state aid programs such as shared revenue, expenditure restraint, and general transportation aids.

Several municipal revenue sources are discussed in more detail below:

1. **Property Tax.** The state imposes tight limits on municipal property taxes. Municipalities can increase tax levies annually for operations only by the percentage increase in property values due to new construction occurring within their borders unless the voters have approved a larger increase by referendum. The average rate of net new construction across the state has not exceeded 1.7% since 2008 and went as low 0.7% in 2011 and 2012.
2. **Local Tax Options.** Wisconsin municipalities may levy only those taxes that are authorized by the state legislature. Municipalities are explicitly prohibited from levying a tax on income by Wis. Stat. § 66.0611. Cities and villages have no authority to levy a general sales tax. However, municipalities are authorized to levy the following optional taxes:
   - Local vehicle registration fee (commonly referred to as a wheel tax), which is a municipal registration fee for certain motor vehicles.

- Room tax, which is a sales tax on establishments providing short-term lodging to the public. Municipalities must spend at least 70% of room tax revenue for "tourism promotion and tourism development."
- Premier resort area tax. Municipalities capable of qualifying as "premier resort areas" (at least 40% of the equalized assessed value of the taxable property within the municipality is used by tourism-related retailers) are authorized to impose a 0.5% sales tax on the gross receipts from the sale, lease, or rental in the municipality of goods or services made by tourism-related retailers. The proceeds from such a tax may be used only to pay for infrastructure expenses.

3. **State Aid.** The state provides general, unrestricted aid to municipalities through several programs, often referred to collectively as shared revenue. Currently, these programs include county and municipal aid, utility aid, expenditure restraint, and state aid for tax exempt property. In addition, the state provides municipalities with aid designed to help communities cover the cost of maintaining, improving, and constructing local roads and other local transportation infrastructure and services. These programs include: general transportation aids, connecting highway aid, local road improvement program, and mass transit operating assistance.

4. **Municipal Borrowing.** Municipalities often finance capital projects by borrowing. Municipal reliance on borrowing has continued to grow in recent years. Municipal power to issue general obligation bonds or notes (i.e., backed by the full faith and credit and taxing power of the municipality) is limited by several interrelated statutory and constitutional provisions. The primary limit being a state constitutional provision capping municipal debt at 5% of a community's equalized value.

Resources for more information

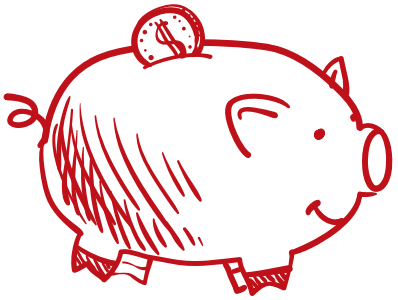
League of Wisconsin Municipality's Handbook for Wisconsin Municipal Officials

Basic Financial Administration for Wisconsin Local Governments (Available for purchase from the League)

Shared Revenue Program (County and Municipal Aid and Utility Aid) (Informational Paper 22), Wisconsin Legislative Fiscal Bureau

County and Municipal Expenditure and Revenue Limits (Informational Paper 15)

Municipal and County Finance (Informational Paper 20)



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Tip #12: Robert's Rules of Order

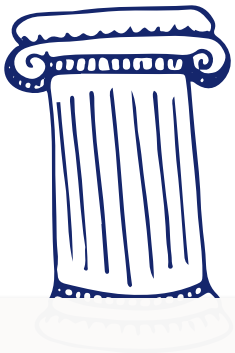
Robert's Rules of Order Newly Revised, 12th Edition (RONR) is a set of parliamentary procedure rules designed to ensure fair, efficient, and democratic meetings. Many municipalities choose to use RONR as their parliamentary guide, however, there are other procedural rule books available. While RONR is helpful, it was not specifically designed with local governments in mind. Therefore, many governmental bodies follow RONR but adapt the rules to meet their needs, as necessary. Below is a chart of common parliamentary motions discussed in RONR.

	To Do This	Say This	Does This Motion Interrupt?	Do You Need a Second?	Is It Debatable?	Can it Be Amended?	What Vote Is Needed?
1	Make a motion	I move that...	No	Yes	Yes	Yes	Majority
2	Change a motion	I move to amend by...	No	Yes	Yes***	Yes	Majority
3	Extend/Limit debate - pending question	I move to limit/extend debate as follows...	No	Yes	No	Yes	2/3
4	Lay on the table	I move to table...	No	Yes	No	No	Majority
5	Reconsider a previous action	I move to reconsider the vote on... *(must be made within time limits)*	Yes	Yes	Yes***	No	Majority
6	Take up a matter previously tabled	I move to take from the table...	No	Yes	No	No	Majority
7	Rescind/Repeal previously adopted motion	I move to rescind...	No	Yes	Yes	Yes	Majority w/ notice***
8	Postpone indefinitely	I move to postpone the motion indefinitely.	No	Yes	Yes	No	Majority
9	Postpone to time certain	I move to postpone the motion until...	No	Yes	Yes***	Yes	Majority
10	Refer/commit	I move to refer/commit the matter to the [...] committee...	No	Yes	Yes***	Yes	Majority
11	Suspend rules	I move to suspend the rules to...	No	Yes	No	No	2/3***
12	End debate	I move the previous question.	No	Yes	No	No	2/3
13	Verify vote results	I move for a division of the assembly.	Yes	No	No	No	No vote
14	End meeting	I move to adjourn.	No	Yes	No	No	Majority
15	Enforce rules	I rise to a point of order...	Yes	No	No***	No	Chair**
16	Challenge a ruling of the chair	I appeal the chair's decision.	Yes***	Yes	Yes***	No	Majority
17	Take a break – no question pending	I move to recess for/until...	No	Yes	Yes	Yes	Majority
18	Request information	Point of information...	Yes	No	No	No	Chair**
19	Request rules help	Parliamentary inquiry...	Yes	No	No	No	Chair**
20	Complain about heat, noise...	I rise to a question of privilege...	Yes	No***	No	No	Chair**

* Based on *Robert's Rules of Order 12th Edition*

** The chair does not vote but responds to the inquiry or requests assistance for a response.

*** See RONR for additional information



Tip #13: Ordinances, Resolutions, and Orders, Oh My!



Governing bodies take action in various ways. They vote on motions, pass resolutions, and enact ordinances and charter ordinances. The form of legislation used is sometimes mandated by statute but, if no form is mandated, understanding the differences between types of legislation can be useful in determining which type of legislation to use.

Ordinances

An ordinance is a local law enacted by a municipality's governing body that prescribes general, uniform, and permanent rules of conduct relating to the corporate powers of the municipality. There are two types of ordinances: charter ordinances and simple ordinances.

Charter Ordinances

A charter ordinance creates or revises any part of a city or village charter and must be used when a municipality elects not to be governed by state laws relating to its local affairs and government, other than laws enacted by the legislature that are of statewide concern and with uniformity affect every city and village. A charter ordinance is the only way municipalities may exercise their constitutional home rule authority. However, charter ordinances may also be used to exercise statutory home rule powers and sometimes statutes specifically require use of a charter ordinance. Municipalities sometimes use charter ordinances when a simple ordinance would suffice but there is a desire to make the local legislative act more permanent. This is because charter ordinances are enacted via a more formal and specific process requiring more steps and may only be amended or repealed by another charter ordinance. Charter ordinances are originated in one of two ways: (1) by the governing body; or (2) by petition of the electors. Charter ordinances initiated and adopted by the governing body require a 2/3 vote of the members-elect to be valid. The charter ordinance must then be published as a Class I notice and does not become valid for 60 days. During that time, electors may bring a petition forward that, if sufficient, requires the governing body to submit the charter ordinance to referendum and be approved by a majority of the voters before it becomes effective.

Simple Ordinances

A simple ordinance is used to effect most local legislative actions with general application. State statutes sometimes require municipalities to exercise their powers via ordinance. For example, cities and villages must use an ordinance to change the governing body members' salary. Ordinances must be in the form prescribed by law and, after passage, the clerk must enter them in full into an ordinance book with proof of publication or posting, date of passage, and page of the journal where the final vote on the ordinance was recorded. Cities must publish all ordinances, either in full or in summary form as prescribed by statute, and they become effective the day after publication. Villages are only required to publish ordinances, or post in lieu of publication, when they impose a forfeiture or penalty, and the ordinances become effective the day after publication or the day after proof of posting has been filed and recorded.

Resolutions

Resolutions are generally less permanent enactments than ordinances and commonly deal with matters of special or temporary character. Resolutions are the most common form of legislation employed by governing bodies to deal with special matters not affecting the general public such as authorizing specific action, granting special privileges, expressing opinions, or communicating with other governmental units or departments or agencies of the municipality. Unlike ordinances, resolutions do not need to be in a specific form, unless expressly required. Resolutions are generally brought forward in writing, but may be oral. Resolutions are generally not published or posted but do appear in condensed form in the governing body's proceedings that are published. Villages are required by statute to record resolutions in chronological order. As with ordinances, the statutes will sometimes require action to be taken via resolution. For example, a resolution is required to create a tax incremental district and to levy special assessments.

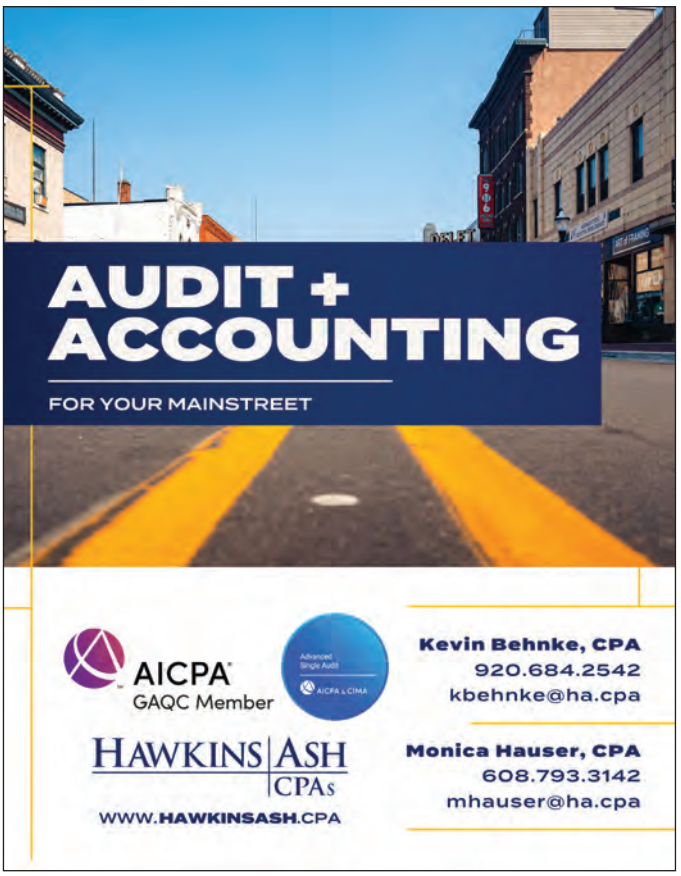
Orders

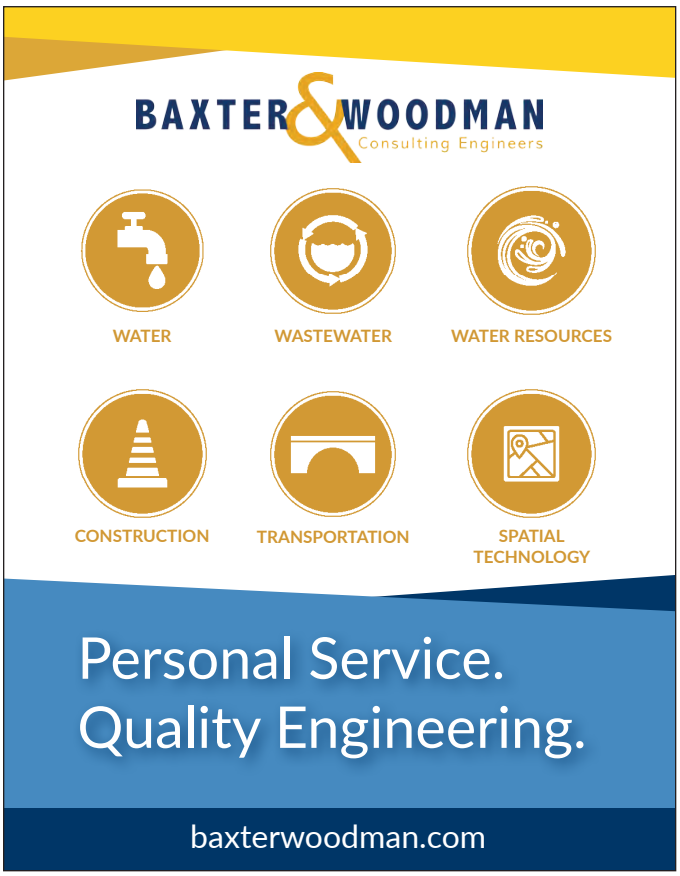
Like resolutions, a municipal order is a directive, written or oral, issued by the governing body and can be used

to direct or authorize specific action. Municipalities may choose to use an order, rather than a resolution, for administrative or procedural matters such as authorizing the purchase of equipment or supplies, approving contracts, or authorizing the hiring or termination of employees. Municipal orders may also be used to direct municipal officers or employees to take specific actions related to a particular issue, such as directing the public works department to repair a particular road or directing the police department to enforce a particular ordinance.

Amending or Repealing Legislation

Case law provides that legislation must be amended by a form of legislation with equal or greater dignity. For example, a resolution may not be used to amend an existing ordinance. A municipality must use at least an ordinance, or something of greater dignity, to amend an existing ordinance. Similarly, an order cannot be used to amend a resolution; it would take a resolution or something of greater dignity.









Tip #14: Land Use Planning and Zoning

Land use planning and regulation determines how communities are built and what landowners can do with their property. Municipal governing body decisions about land use and zoning directly impact whether, where, and how a community grows; has enough affordable housing available; and the overall health, well-being, and quality of the municipality.

The common council or village board adopts and amends comprehensive plans and land use regulations (such as zoning and subdivision ordinances). In addition, the common council or village board has responsibilities to budget for planning and zoning staff and activities.

Comprehensive Plans

A comprehensive plan is a local government's long-term guide to the community's physical, social, and economic development. Wisconsin state law requires communities that engage in zoning, like nearly all cities and villages, to adopt a comprehensive plan. While a local government has much flexibility in developing its comprehensive plan, under state law (Wis. Stat. § 66.1001), a comprehensive plan must include at least the nine elements listed below:

- Issues and Opportunities
- Housing
- Transportation
- Utilities and Community Facilities
- Agricultural, Natural and Cultural Resources
- Economic Development
- Intergovernmental Cooperation
- Land Use
- Implementation

A comprehensive plan is not regulatory in nature, but provides a guide to making short-term planning decisions such as how much capacity to build into a new wastewater treatment plant, how much and where affordable housing is needed, or how to evaluate the potential impacts of rezoning a parcel of land.

A comprehensive plan is not a static document. It needs to be continually updated as conditions change. At a minimum, Wis. Stat. § 66.1001(2)(i) requires that comprehensive plans be updated no less than once every 10 years.

Implementation of the comprehensive plan must be linked to ordinances such as zoning and subdivision, but also to the annual budget, cooperation with other units of government, and the needs and capabilities of the private sector.

Zoning

The zoning ordinance is the most important tool in the day-to-day implementation of the comprehensive plan. Zoning is one of the most common methods of land use control used by local governments. Traditional zoning ordinances work in conjunction with the zoning map by dividing a community into districts, regulating uses that are allowed within those districts, and prescribing allowable dimensions such as lot sizes, setbacks, and building height. The intent of zoning is to balance individual property rights with the interests of the community to create a healthy, safe, and orderly living environment.

Form-based zoning codes have recently emerged as an alternative to traditional zoning. Under this type of zoning, the form of a development project (like height, footprint, materials, or relationship to other buildings) is regulated rather than the specific uses (such as residential or commercial). The idea is to use zoning to ensure compatibility while allowing a greater mix of uses than traditional zoning restrictions afford.

Focus on Housing. Zoning can help a community achieve the goals outlined in a comprehensive plan, including housing. Municipalities across Wisconsin are struggling with a shortage of affordable housing options. There are many reasons for this lack of affordable housing. One contributing cause that nearly all municipal policymakers can address is outdated local zoning regulations and policies inadvertently restricting the creation of more housing.

It is critical for municipalities to make the process of adapting existing housing stock and building more varied housing, including apartments, easier. The League has created a guide to help municipal staff and policymakers make incremental zoning code adjustments to remove barriers to housing. The guide, *Enabling Better Places: A User's Guide to Neighborhood Affordability* is posted on the League's website and recommends a menu of changes to local zoning codes, including:

- Allowing multi-unit housing as permitted uses in single-family zoning districts which have historically included two-family and multifamily.
- Realign lot widths and areas to match historic patterns favoring narrower lots.
- Reduce setbacks to historic distances to allow greater use of existing lots.
- Allow accessory dwellings by right for all single-family zoning districts.
- Permit residential uses, including multifamily, in commercial districts.
- Reduce or eliminate parking minimums.
- Streamline the subdivision and workforce housing application process.

Resources for more information:

Enabling Better Places: A User's Guide to Neighborhood Affordability

California Institute of Local Government: Understanding the Basics of Land Use and Planning: A Guide to Local Planning (2010)

DOA maintains a comprehensive planning web page, which includes sample plans and guides to all of the required elements of a plan.

UW-Madison Extension Land Use Training & Resources page



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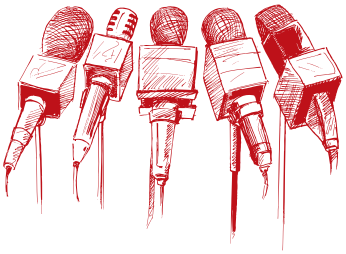
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Tip #15: Communicating With Media, Peers, and the Public

COMMUNICATING WITH THE MEDIA:



Reporters have a job to do. They are talking with local agency officials, and probably others, to gain information on a story they are producing. They will often ask difficult questions that may seem antagonistic, but that may not be their intention. They are simply trying to get the job done. Regardless of their demeanor, it is important to stay calm and:

Be responsive.

- Reporters operate on deadlines. To do their jobs, they need a timely response. Understand reporters' deadlines and meet or beat them.

Be professional.

- What you say can and will be on the record (unless you state otherwise, even then, it may be for the record).

State the facts and be authentic.

- Avoid assumptions and if you don't know, say so.

If you say you will get back to someone, be sure to get back to them.

- The more helpful and prompt you are, the more likely a reporter is to work with you.

Build a relationship.

- Add them to your email lists, follow them on social media, reach out to them with information or questions. You want them to come to you to write their story.

Give them the story before they can write it for you.

- If you know something is newsworthy, pitch them the story instead of them writing without your perspective.

Contacts and images.

- Connect them with an expert of a specific department or topic. Spell out names and titles. If asked for photos, provide professional images and headshots of employees, equipment, and buildings/landmarks.

When on video, look the part.

- If possible, wear a logo or stand in front of an iconic/important item or location. Smile if the story is upbeat. Stand with good posture and poise. Articulate your sentences.

Concise talking points are key.

- Do your best to prepare talking points so you can stay on topic, especially in an audio interview.

COMMUNICATING WITH YOUR PEERS:



Reach out and grab coffee, even before a matter of concern arises, to get to know one another.

Carpool to a League meeting together.

Invite the League to a regional meetup; if you don't already have regional meetups, the League would love to talk with you about establishing one.

COMMUNICATING WITH THE PUBLIC (or is it the other way around?):

Be accessible.

- Stay on top of your public email, if given one. *See public records Tip #2 – Wisconsin Values Transparency!*

Be responsive.

- Acknowledge and return communications in a timely manner.

Be accurate.

- Often, looking into a concern might be just what someone is looking for.

Listen and re-state

- Seek to understand and ensure you've understood the concern.

Invite feedback

- But work to ensure feedback is solicited in multiple ways from various viewpoints.
- Social media - *Understand application of public records and open meetings laws and determine if social media is right for you.*
- Hold a listening session.





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Tip #16: GETTING STARTED!

This month's cover nearly says it all about the emotions that can come about when making the transition from candidate to elected official, but that is just the beginning. The fresh eyes experiences is valuable to the institution of local governments. Opportunity to improve, make enhancements, and tackle new challenges abound. The learning curve is real; a full year of all the seasons that local government operates within can be a good measure. By then, some of you may find yourself facing the decision to seek reelection.

- **Take care of yourself. Just like a work/life balance, you will find the need to balance life/governance.**
  - This may involve setting boundaries from when you receive notifications on your phone.
- **Give yourself time to be prepared for board meetings.**
  - Read, read, re-read
- **Ask questions.**
  - See above. Before the meeting is always ideal.
- **Set up a standing meeting with your chief executive – mayor, village president, administrator, or manager.**
  - Try setting meetings to coincide with the next meeting agenda.
- **Commit to continued training and education.**
  - The League's training, conferences, publications, and resources are available for YOU.
- **Consult legal (before legal trouble finds you)**
  - Your municipal attorney or League legal staff are good places to start.
- **Review the:**
  - ✔ Strategic plan
  - ✔ Comprehensive plan
  - ✔ Operating plans
  - ✔ Capital improvement plan
  - ✔ Annual budget
  - ✔ Municipal ordinances, municipal code
  - ✔ Tax Increment Finance project plans, if you really find yourself interested in reading more
- **Meet with staff**
  - Work with your chief executive to conduct an orientation that all your fellow elected officials can participate in.
- **Get to know your clerk – they have far-ranging responsibilities and you will interact with them often.**
- **Ask for a tour of city property – parks, buildings, etc.**
- **See Tip # 1: Resources, on page 4 for more info**

"You have brains in your head, feet in your shoes, you can steer yourself in any direction you choose!"

– Dr Seuss

Tip #17: Getting Sued



This tip considers two aspects of liability: personal and municipal.

It's not uncommon for newly-elected officials to wonder: am I personally liable for the actions I take on this board? After all, who wants to lose their house over a vote on a rezoning proposal? Wisconsin law anticipated this and, provided you're playing by the rules, you are generally protected against personal liability, even if you make a mistake. Wisconsin Statute § 895.46 states that a municipality must indemnify both employees and elected officials for negligent acts taken within the scope of their authority. This has generally been interpreted by the courts to apply to the normal day-in, day-out actions that you would take as a local leader (or local government staff).

There are important exceptions to this protection against liability. Wisconsin places a very high value on transparency in the operation of local government. The state's open meetings and public records laws specifically say that a local official can be penalized for knowingly violating those laws. It is very important that you understand these two "sunshine" laws and abide by their principles. See Tip #2 (Wisconsin Values Transparency!) for more on this.

Finally, it should go without saying, that you are not shielded from liability for criminal violations of the law (fraud, corruption, etc.).

While you are generally protected from civil liability in your role as a local leader, this is not always the case for the city or village itself. A zoning decision that is made based on feedback from an angry mob, as opposed to the actual standards in the zoning ordinance could cost your municipality millions of dollars. Denying a permit or license without following the appropriate procedure could have a devastating financial impact on the applicant, an impact that the city could be liable for. Municipal governments have special statutory immunity, but this immunity is not complete.

For these reasons (and for the sake of good government), the League cannot say it strongly enough or often enough: your municipal attorney is there for a reason; listen to him or her! There are times you will need to put on a "different hat" with certain decisions, shifting from legislative decision maker to quasi-judicial actor. See Tip 6 (Which Hat Am I Wearing?).

Land use laws and liquor license laws have very specific and often confusing protections for applicants. It is unrealistic or unreasonable for you, acting as a generalist and layperson, to know all the legal nuances involved. But that does not excuse you from using the tools available to you. In most cases, the most important tool is the expert advice of your municipal attorney.

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Tip #18:
First-Year Takeaways from Past Officials

The League estimates that there are almost 800 newly elected municipal governing body members in Wisconsin each year. We sent out a survey to those elected in 2022, and following are their responses.

In your first year as an elected official, what surprised you the most

- The amount of time it actually takes to make decisions and the protocol that has to be followed.
- How hard it is to get things done. I own a business, and when we change something that makes sense we just do it. That is not how government works.
- How well organized our village is due to our clerk, our excellent village maintenance crew, and our village board president.
- I'm surprised by how lean our municipal government and staff run. It can create some longer response times, but the needs put on them grow every year and the funding doesn't keep up with the demand. They do an outstanding job.
- How political tribalism builds amongst elected bodies rather quickly.
- Backlash from groups in the community about issues that are not political.
- Public animosity.
- How little citizens pay attention to what goes on in city government.

MORE

What advice do you have for someone just starting their career as an elected official



- Be patient, you can't figure out everything for everyone in the first few months.
- Stay true to yourself and keep an open mind. Being a change agent is hard, but progress will come.
- Change takes time. Anything with the government is extremely slow at any level.
- Staff will provide an abundance of detail in their staff reports for agenda items. Staff wants to hear your questions or clarifications on the agenda items before the meeting day.
- Read everything that is given to you twice so you have a good understanding of the topic.
- Read up on Robert's Rules for meetings and always ask questions.
- It is "I move" not "I make a motion."
- Be yourself, don't hold grudges, and remember who you represent.
- Be transparent and get out in the community.
- Listen, then listen some more.
- Ask questions if you don't know something. You need to do the job well so learn as much as you can from people who already have the experience.
- Recognize that government works best with cooperation and open channels between citizens and their representatives.



- Be prepared and listen often.
- Listen and learn before you speak or act.
- Attend the League's Government 101 Workshop.

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Civility can boost your professional success!

Maureen Murphy, President of the League of Wisconsin Municipalities

Mastering Civility: A Manifesto for the Workplace, by Christine Porath, has a great title and is so timely with where the workplace and quite honestly society is right now. In the book, the author presents her theories by asking, "Who do you want to be?" Whether you know it or not, you're answering that question every day through your words and actions. Either you lift people up, or you hold them down. Your words and actions mean everything.

Think about movies like the *Secret Life of Walter Mitty*, *Wall Street*, *Mr. Smith Goes to Washington*, or any of the multitude of bad guy treating good guy badly movies. It happens in the movies and, unfortunately, it happens in real life far too often. Today, it happens way too much on social media.

What are the impacts of incivility on people? The author and her partner had a simple theory that small, uncivil actions can lead to much bigger problems like violence and aggression. They also believed that incivility affected people's performance and the bottom line. But, how do you prove it? This is where the studies come into play.

Mastering Civility goes into great detail about the studies the author conducted. Each and every time, the results were astonishing. Bad bosses were causing good employees to lose motivation. Workplace stress is persistent with uncivil bosses. Lost productivity and motivation, disengagement and absenteeism leads to turnover, all of which is bad for your bottom line.

In contrast, civility makes people feel valued and appreciated. Shared recognition, gratitude, and positive feedback at work makes employees feel respected. At work, focus on the basics like smiling and saying thank you. Learn your colleagues' names and use them frequently.

The author's most important points are that we can do better. Each one of us can be more mindful and take actions to lift others up around us, at work, at home, online, in schools, and in our communities. In every interaction, think: Who do you want to be? Let's put an end to incivility and start spreading civility.

Thank you Christine!

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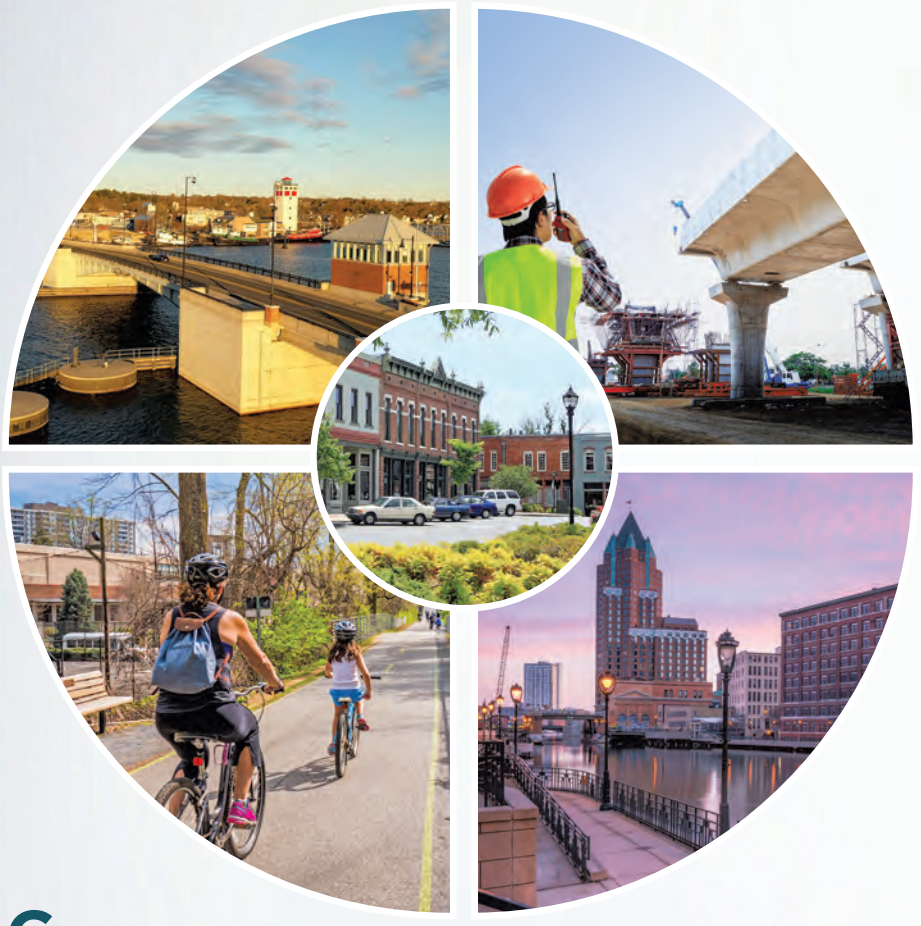
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May 2019

Wisconsin Open Meetings Law Compliance Guide

Wisconsin Department of Justice
Attorney General Josh Kaul

Message from the Office of Open Government

It is imperative that we recognize that transparency is the cornerstone of democracy and that citizens cannot hold elected officials accountable in a representative government unless government is performed in the open.

The Wisconsin Department of Justice (DOJ) plays an important role in ensuring Wisconsin's open government laws are properly and faithfully executed by public officials. The Office of Open Government has worked to reduce DOJ's average public record response times. The office also makes available online a snapshot of all public records requests pending each week, average monthly response times for the office, and responses to public records requests that may be of public interest. DOJ responds to hundreds of inquiries every year concerning issues related to the open meetings law and the public records law, and instructs on open government at dozens of conferences, seminars, and training sessions. In these ways, the Office of Open Government provides resources and services to all state, regional, and local government entities and citizens.

Wisconsin's open government laws promote democracy by ensuring that all state, regional and local governments conduct their business with transparency. Wisconsin citizens have a right to know how their government is spending their tax dollars and exercising the powers granted by the people. This guide is a resource for everyone to understand and exercise their right to access their government.

This compliance guide may be accessed, downloaded or printed free of charge from the DOJ website, by visiting https://www.doj.state.wi.us/. Please share this guide with your constituencies and colleagues.

Records custodians and all those who perform public duties are encouraged to contact the Office of Open Government if we can be of assistance.

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Public Records/Open Meetings (PROM) Help Line: (608) 267-2220

Disclaimer

This guide provides an overview of the law and compiles information provided by DOJ in response to inquiries submitted over the course of several decades. This guide is provided pursuant to Wis. Stat. § 19.98 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

This guide does not provide answers to every question that may arise regarding the open meetings law. Although this guide is updated periodically, it reflects the current law as of the date of its publication, and it may be superseded or affected by newer versions and/or changes in the law. This guide does not create an attorney-client relationship. You should consult with an attorney for specific information and advice when necessary and appropriate.

Wisconsin Open Meetings Law Compliance Guide

May 2019



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Table of Contents

Page

POLICY OF THE OPEN MEETINGS LAW 1

WHEN DOES THE OPEN MEETINGS LAW APPLY? 1

Definition of "Governmental Body" 1

Entities That Are Governmental Bodies 1

State or Local Agencies, Boards, and Commissions 2

Governmental or Quasi-Governmental Corporations 5

State Legislature 6

Subunits 6

Entities That Are Not Governmental Bodies 7

Governmental Offices Held by a Single Individual 7

Bodies Meeting for Collective Bargaining 7

Bodies Created by the Wisconsin Supreme Court 7

Ad Hoc Gatherings 8

Definition of "Meeting" 9

The *Showers* Test 9

The Purpose Requirement 9

The Numbers Requirement 10

Convening of Members 10

Written Correspondence 10

Telephone Conference Calls 11

Electronic Communications 11

Walking Quorums 12

Multiple Meetings 12

Burden of Proof as to Existence of a Meeting 13

WHAT IS REQUIRED IF THE OPEN MEETINGS LAW APPLIES? 14

Notice Requirements 14

To Whom and How Notice Must Be Given 14

Contents of Notice 15

In General 15

Generic Agenda Items 17

Action Agenda Items 18
Notice of Closed Sessions 18
Time of Notice 19
Compliance with Notice 19
Open Session Requirements 20
Accessibility 20
Access for Persons with Disabilities 21
Tape Recording and Videotaping 21
Citizen Participation 22
Ballots, Votes, and Records, Including Meeting Minutes 22
WHEN IS IT PERMISSIBLE TO CONVENE IN CLOSED SESSION? 24
Notice of Closed Session 24
Procedure for Convening in Closed Session 24
Authorized Closed Sessions 25
Judicial or Quasi-Judicial Hearings 25
Employment and Licensing Matters 25
Consideration of Dismissal, Demotion, Discipline, Licensing, and Tenure 25
Consideration of Employment, Promotion, Compensation, and Performance Evaluations 26
Consideration of Financial, Medical, Social, or Personal Information 27
Conducting Public Business with Competitive or Bargaining Implications 28
Conferring with Legal Counsel with Respect to Litigation 29
Remaining Exemptions 29
Who May Attend a Closed Session 29
Voting in an Authorized Closed Session 30
Reconvening in Open Session 30
WHO ENFORCES THE OPEN MEETINGS LAW AND WHAT ARE ITS PENALTIES? 31
Enforcement 31
Penalties 32
Interpretation by Attorney General 33

POLICY OF THE OPEN MEETINGS LAW

The State of Wisconsin recognizes the importance of having a public informed about governmental affairs. The state's open meetings law declares that:

> In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.[1]

In order to advance this policy, the open meetings law requires that "all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law."[2] There is thus a presumption that meetings of governmental bodies must be held in open session.[3] Although there are some exemptions allowing closed sessions in specified circumstances, they are to be invoked sparingly and only where necessary to protect the public interest. The policy of the open meetings law dictates that governmental bodies convene in closed session only where holding an open session would be incompatible with the conduct of governmental affairs. "Mere government inconvenience is . . . no bar to the requirements of the law."[4]

The open meetings law explicitly provides that all of its provisions must be liberally construed to achieve its purposes.[5] This rule of liberal construction applies in all situations, except enforcement actions in which forfeitures are sought.[6] Public officials must be ever mindful of the policy of openness and the rule of liberal construction in order to ensure compliance with both the letter and spirit of the law.[7]

WHEN DOES THE OPEN MEETINGS LAW APPLY?

The open meetings law applies to every "meeting" of a "governmental body."[8] The terms "meeting" and "governmental body" are defined in Wis. Stat. § 19.82(1) and (2).

Definition of "Governmental Body"

- **Entities That Are Governmental Bodies**

A "governmental body" is defined as:

> [A] state or local agency, board, commission, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley Center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long-term care district

[1] Wis. Stat. § 19.81(1).
[2] Wis. Stat. § 19.81(2).
[3] *State ex rel. Newspapers, Inc. v. Showers*, 135 Wis. 2d 77, 97, 398 N.W.2d 154 (1987).
[4] *State ex rel. Lynch v. Conta*, 71 Wis. 2d 662, 678, 239 N.W.2d 313 (1976).
[5] Wis. Stat. § 19.81(4); *State ex rel. Badke v. Vill. Bd. of Greendale*, 173 Wis. 2d 553, 570, 494 N.W.2d 408 (1993); *State ex rel. Lawton v. Town of Barton*, 2005 WI App 16, ¶ 19, 278 Wis. 2d 388, 692 N.W.2d 304 ("The legislature has issued a clear mandate that we are to vigorously and liberally enforce the policy behind the open meetings law.").
[6] Wis. Stat. § 19.81(4).
[7] *State ex rel. Citizens for Responsible Dev. v. City of Milton*, 2007 WI App 114, ¶ 6, 300 Wis. 2d 649, 731 N.W.2d 640 ("The legislature has made the policy choice that, despite the efficiency advantages of secret government, a transparent process is favored.").
[8] Wis. Stat. § 19.83.

under s. 46.2895; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV, V, or VI of ch. 111.[9]

This definition includes multiple parts, the most important of which are discussed below.

- **State or Local Agencies, Boards, and Commissions**

  The definition of "governmental body" includes a "state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order . . . ."[10] This list of entities is broad enough to include virtually any collective governmental entity, regardless of what it is labeled. It is important to note that these entities are defined primarily in terms of the manner in which they are created, rather than in terms of the type of authority they possess. Purely advisory bodies are therefore subject to the law, even though they do not possess final decision making power, as long as they are created by constitution, statute, ordinance, rule, or order.[11]

  The words "constitution," "statute," and "ordinance," as used in the definition of "governmental body," refer to the constitution and statutes of the State of Wisconsin and to ordinances promulgated by a political subdivision of the state. The definition thus includes state and local bodies created by Wisconsin's constitution or statutes, including condemnation commissions created by Wis. Stat. § 32.08, as well as local bodies created by an ordinance of any Wisconsin municipality. It does not, however, include bodies created solely by federal law or by the law of some other sovereign.

  State and local bodies created by "rule or order" are also included in the definition. The term "rule or order" has been liberally construed to include any directive, formal or informal, creating a body and assigning it duties.[12] This includes directives from governmental bodies, presiding officers of governmental bodies, or certain governmental officials, such as county executives, mayors, or heads of a state or local agency, department, or division.[13]

  Thus, for example, in *State ex rel. Krueger v. Appleton Area School District Board of Education*, the Wisconsin Supreme Court held that a curriculum committee, "created by" school board rule and given the delegated authority to review and select educational materials for the school board's approval, was subject to open meetings laws.[14]

  - First, it was a "committee" under Wis. Stat. § 19.82(1), not an ad hoc gathering, because it was comprised of a defined membership of individuals selected pursuant to the procedures set forth in the school board's policy handbook, and its members were empowered to vote on how the school board should exercise its collective authority as a body.[15]

  - Second, it was "created by . . . rule" under Wis. Stat. § 19.82(1), because the school board handbook policy was authorized by school board rule, thereby authorizing and enabling the

[9] Wis. Stat. § 19.82(1).
[10] Wis. Stat. § 19.82(1).
[11] *See State v. Swanson*, 92 Wis. 2d 310, 317, 284 N.W.2d 655 (1979).
[12] 78 Op. Att'y Gen. 67, 68–69 (1989).
[13] *See* 78 Op. Att'y Gen. 67.
[14] *State ex rel. Krueger v. Appleton Area Sch. Dist. Bd. of Educ.*, 2017 WI 70, ¶¶ 27–34, 376 Wis. 2d 239, 898 N.W.2d 35.
[15] *Id*. ¶¶ 28-31.

committee to be created. The school board rule also prescribed the procedures for school district employees to follow in reviewing educational materials and presenting them to the school board for approval. Read together, the school board rule and the board-approved handbook policy therefore authorized committees like the one at issue to be created, and also authorized such committees to exercise the school board's delegated authority over curriculum review for the school district.[16]

- In so holding, the Wisconsin Supreme Court explained that it did not matter that two individual district employees decided to put the rule and handbook policy in motion to form the committee. It also did not matter that neither the school board rule nor the handbook policy had provisions that created or mentioned the committee by name. Nor did it matter that the committee deviated from the handbook's procedures in making its recommendations to the school board for a specific course's curriculum. Rather, the dispositive factor was that the school board's handbook policy authorized such review committees to be created for the purposes of reviewing curriculum materials and making recommendations to the school board for adoption.[17]

A group organized by its own members pursuant to its own charter, however, is not created by any governmental directive and thus is not a governmental body, even if it is subject to governmental regulation and receives public funding and support. The relationship of affiliation between the University of Wisconsin Union and various student clubs thus is not sufficient to make the governing board of such a club a governmental body.[18]

The Wisconsin Supreme Court or Wisconsin Attorney General have concluded that the following entities are state or local bodies that are subject to the open meetings law by virtue of having been created by constitution, statute, ordinance, resolution, rule or order:

- **State or Local Bodies Created by Constitution, Statute, or Ordinance**
  - ◊ A municipal public utility managing a city-owned public electrical utility.[19]
  - ◊ Departments of formally constituted subunits of the University of Wisconsin system or campus.[20]
  - ◊ A town board, but not an annual or special town meeting of town electors.[21]
  - ◊ A county board of zoning adjustment authorized by Wis. Stat § 59.99(3) (1983) (now Wis. Stat. § 59.694(1)).[22]
  - ◊ A public inland lake protection and rehabilitation district established by a county or municipality, pursuant to Wis. Stat. §§ 33.21 to 33.27.[23]

[16] *Krueger*, 2017 WI 70, ¶¶ 32–34, 43.
[17] *Id*. ¶¶ 35–40.
[18] Penkalski Correspondence (May 4, 2009).
[19] 65 Op. Att'y Gen. 243 (1976).
[20] 66 Op. Att'y Gen. 60 (1977).
[21] 66 Op. Att'y Gen. 237 (1977).
[22] Gaylord Correspondence (June 11, 1984).
[23] DuVall Correspondence (Nov. 6, 1986).

- **State or Local Bodies Created by Resolution, Rule, or Order**

  - ◊ A committee created by a school board's policy handbook to review and select education materials for the board's approval.[24]

  - ◊ A committee appointed by the school superintendent to consider school library materials.[25]

  - ◊ A citizen's advisory group appointed by the mayor.[26]

  - ◊ An advisory committee appointed by the Natural Resources Board, the Secretary of the Department of Natural Resources, or a District Director, Bureau Director, or Property Manager of that department.[27]

  - ◊ A consortium of school districts created by a contract between districts; a resolution is the equivalent of an order.[28]

  - ◊ An industrial agency created by resolution of a county board under Wis. Stat. § 59.57(2).[29]

  - ◊ A deed restriction committee created by resolution of a common council.[30]

  - ◊ A school district's strategic-planning team whose creation was authorized and whose duties were assigned to it by the school board.[31]

  - ◊ A citizen's advisory committee appointed by a county executive.[32]

  - ◊ An already-existing numerically definable group of employees of a governmental entity, assigned by the entity's chief administrative officer to prepare recommendations for the entity's policy-making board, when the group's meetings include the subject of the chief administrative officer's directive.[33]

  - ◊ A Criminal Justice Study Commission created by the Wisconsin Department of Justice, the University of Wisconsin Law School, the State Bar of Wisconsin, and the Marquette University Law School.[34]

  - ◊ Grant review panels created by a consortium which was established pursuant to an order of the Wisconsin Commissioner of Insurance.[35]

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[24] *Krueger*, 2017 WI 70, ¶ 27.
[25] Staples Correspondence (Feb. 10, 1981).
[26] Funkhouser Correspondence (Mar. 17, 1983).
[27] 78 Op. Att'y Gen. 67.
[28] I-10-93 (Oct. 15, 1993).
[29] I-22-90 (Apr. 4, 1990).
[30] I-34-90 (May 25, 1990).
[31] I-29-91 (Oct. 17, 1991).
[32] Jacques Correspondence (Jan. 26, 2004).
[33] Tylka Correspondence (June 8, 2005).
[34] Lichstein Correspondence (Sept. 20, 2005).
[35] Katayama Correspondence (Jan. 20, 2006).

- ◊ A joint advisory task force established by a resolution of a Wisconsin town board and a resolution of the legislature of a sovereign Indian tribe.[36]

- ◊ A University of Wisconsin student government committee, council, representative assembly, or similar collective body that has been created and assigned governmental responsibilities pursuant to Wis. Stat. § 36.09(5).[37]

- **Governmental or Quasi-Governmental Corporations**

The definition of "governmental body" also includes a "governmental or quasi-governmental corporation," except for the Bradley sports center corporation.[38] The term "governmental corporation" is not defined in either the statutes or the case law interpreting the statutes. It is clear, however, that a "governmental corporation" must at least include a corporation established for some public purpose and created directly by the state legislature or by some other governmental body pursuant to specific statutory authorization or direction.[39]

The term "quasi-governmental corporation" also is not defined in the statutes, but its definition was discussed by the Wisconsin Supreme Court in *State v. Beaver Dam Area Development Corp.* (*"BDADC"*).[40] In that decision, the court held that a "quasi-governmental corporation" does not have to be *created* by the government or be *per se* governmental, but rather is a corporation that significantly resembles a governmental corporation in function, effect, or status.[41] The court further held that each case must be decided on its own particular facts, under the totality of the circumstances and set forth a non-exhaustive list of factors to be examined in determining whether a particular corporation sufficiently resembles a governmental corporation to be deemed quasi-governmental, while emphasizing that no single factor is outcome determinative.[42] The factors set out by the court in *BDADC* fall into five basic categories: (1) the extent to which the private corporation is supported by public funds; (2) whether the private corporation serves a public function and, if so, whether it also has other, private functions; (3) whether the private corporation appears in its public presentations to be a governmental entity; (4) the extent to which the private corporation is subject to governmental control; and (5) the degree of access that government bodies have to the private corporation's records.[43]

In adopting this case-specific, multi-factored "function, effect or status" standard, the Wisconsin Supreme Court followed a 1991 Attorney General opinion.[44] Prior to 1991, however, Attorney General opinions on this subject emphasized some of the more formal aspects of

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[36] I-04-09 (Sept. 28, 2009).
[37] I-05-09 (Dec. 17, 2009).
[38] Wis. Stat. § 19.82(1).
[39] *See* 66 Op. Att'y Gen. 113, 115 (1977).
[40] *State v. Beaver Dam Area Dev. Corp.*, 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295.
[41] *Id.* ¶¶ 33–36.
[42] *Id.* ¶¶ 7–8, 63 n.14, 79.
[43] *Id.* ¶ 62.
[44] *See* 80 Op. Att'y Gen. 129, 135 (1991) (Milwaukee Economic Development Corporation, a Wis. Stat. ch. 181 corporation organized by two private citizens and one city employee, is a quasi-governmental corporation); *see also* Kowalczyk Correspondence (Mar. 13, 2006) (non-stock, non-profit corporations established for the purpose of providing emergency medical or fire department services for participating municipalities are quasi-governmental corporations).

quasi-governmental corporations. Those opinions should now be read in light of the *BDADC* decision.[45]

In March 2009, the Attorney General issued an informal opinion which analyzed the *BDADC* decision in greater detail and expressed the view that, out of the numerous factors discussed in that decision, particular weight should be given to whether a corporation serves a public function and has any private functions.[46] When a private corporation contracts to perform certain services for a governmental body, the key considerations in determining whether the corporation becomes quasi-governmental are whether the corporation is performing a portion of the governmental body's public functions or whether the services provided by the corporation play an integral part in any stage—including the purely deliberative stage—of the governmental body's decision-making process.[47]

In January 2019, the Wisconsin Court of Appeals also analyzed the *BDADC* decision further, and held that, while all the non-exhaustive factors set forth in *BDADC* are relevant and no one factor is outcome determinative, a "primary consideration" is whether the private corporation is funded exclusively on public tax dollars or interest generated on those dollars.[48]

- **State Legislature**

Generally speaking, the open meetings law applies to the state legislature, including the senate, assembly, and any committees or subunits of those bodies.[49] The law does not apply to any partisan caucus of the senate or assembly.[50] The open meetings law also does not apply where it conflicts with a rule of the legislature, senate, or assembly.[51] Additional restrictions are set forth in Wis. Stat. § 19.87.

- **Subunits**

A "formally constituted subunit" of a governmental body is itself a "governmental body" within the definition in Wis. Stat. § 19.82(1). A subunit is a separate, smaller body created by a parent body and composed exclusively of members of the parent body.[52] If, for example, a fifteen member county board appoints a committee consisting of five members of the county board, that committee would be considered a "subunit" subject to the open meetings law. This is true despite the fact that the five-person committee would be smaller than a quorum of the county board. Even a committee with only two members is considered a "subunit," as is a committee that is only advisory and that has no power to make binding decisions.[53]

Groups that include both members and non-members of a parent body are not "subunits" of the parent body. Such groups nonetheless frequently fit within the definition of a "governmental

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[45] *See* 66 Op. Att'y Gen. 113 (volunteer fire department organized under Wis. Stat. ch. 181 is not a quasi-governmental corporation); 73 Op. Att'y Gen. 53 (1984) (Historic Sites Foundation organized under Wis. Stat. ch. 181 is not a quasi-governmental corporation); 74 Op. Att'y Gen. 38 (corporation established to provide financial support to public broadcasting stations organized under Wis. Stat. ch. 181 is not a quasi-governmental corporation); Geyer Correspondence (Feb. 26, 1987) (Grant County Economic Development Corporation organized by private individuals under Wis. Stat. ch. 181 is not a quasi-governmental corporation, even though it serves a public purpose and receives more than fifty percent of its funding from public sources).

[46] I-02-09 (Mar. 19, 2009).

[47] *Id.*

[48] *State ex rel. Flynn v. Kemper Ctr., Inc.*, 2019 WI App 6, ¶¶ 14–16, 385 Wis. 2d 811, 924 N.W.2d 218.

[49] Wis. Stat. § 19.87.

[50] Wis. Stat. § 19.87(3).

[51] Wis. Stat. § 19.87(2).

[52] 74 Op. Att'y Gen. 38, 40 (1985).

[53] Dziki Correspondence (Dec. 12, 2006).

body"—*e.g.*, as advisory groups to the governmental bodies or government officials that created them.

Any entity that fits within the definition of "governmental body" must comply with the requirements of the open meetings law. In most cases, it is readily apparent whether a particular body fits within the definition. On occasion, there is some doubt. Any doubts as to the applicability of the open meetings law should be resolved in favor of complying with the law's requirements.

- **Entities That Are Not Governmental Bodies**

  - **Governmental Offices Held by a Single Individual**

    The open meetings law does not apply to a governmental department with only a single member.[54] Because the term "body" connotes a group of individuals, a governmental office held by a single individual likewise is not a "governmental body" within the meaning of the open meetings law. Thus, the open meetings law does not apply to the office of coroner or to inquests conducted by the coroner.[55] Similarly, the Attorney General has concluded that the open meetings law does not apply to an administrative hearing conducted by an individual hearing examiner.[56]

  - **Bodies Meeting for Collective Bargaining**

    The definition of "governmental body" explicitly excludes bodies that are formed for or meeting for the purpose of collective bargaining with municipal or state employees under subchapters I, IV, or V of Wis. Stat. ch. 111. A body formed exclusively for the purpose of collective bargaining is not subject to the open meetings law.[57] A body formed for other purposes, in addition to collective bargaining, is not subject to the open meetings law when conducting collective bargaining.[58] The Attorney General has, however, advised multi-purpose bodies to comply with the open meetings law, including the requirements for convening in closed session, when meeting for the purpose of forming negotiating strategies to be used in collective bargaining.[59] The collective bargaining exclusion does not permit any body to consider the final ratification or approval of a collective bargaining agreement under subchapters I, IV, or V of Wis. Stat. ch. 111 in closed session.[60]

  - **Bodies Created by the Wisconsin Supreme Court**

    The Wisconsin Supreme Court has held that bodies created by the court, pursuant to its superintending control over the administration of justice, are not governed by the open meetings law.[61] Thus, generally speaking, the open meetings law does not apply to the court or bodies created by the court. In the *Lynch* case, for example, the court held that the former open meetings law, Wis. Stat. § 66.77(1) (1973), did not apply to the Wisconsin Judicial Commission, which is responsible for handling misconduct complaints against judges. Similarly, the Attorney General has indicated that the open meetings law does not apply to: the Board of Attorneys Professional

[54] *Plourde v. Habhegger*, 2006 WI App 147, 294 Wis. 2d 746, 720 N.W.2d 130.
[55] 67 Op. Att'y Gen. 250 (1978).
[56] Clifford Correspondence (Dec. 2, 1980).
[57] Wis. Stat. § 19.82(1).
[58] Wis. Stat. § 19.82(1)
[59] 66 Op. Att'y Gen. 93, 96-97 (1977).
[60] Wis. Stat. § 19.85(3).
[61] *State ex rel. Lynch v. Dancey*, 71 Wis. 2d 287, 238 N.W.2d 81 (1976).

Responsibility;[62] the Board of Bar Examiners;[63] or the monthly judicial administration meetings of circuit court judges, conducted under the authority of the court's superintending power over the judiciary.[64]

- **Ad Hoc Gatherings**

Although the definition of a governmental body is broad, some gatherings are too loosely constituted to fit the definition. Thus, *Conta* holds that the directive that creates the body must also "confer[] collective power and define[] when it exists."[65] *Showers* adds the further requirement that a "meeting" of a governmental body takes place only if there are a sufficient number of members present to determine the governmental body's course of action.[66] In order to determine whether a sufficient number of members are present to determine a governmental body's course of action, the membership of the body must be numerically definable. The Attorney General's Office thus has concluded that a loosely constituted group of citizens and local officials instituted by the mayor to discuss various issues related to a dam closure was not a governmental body, because no rule or order defined the group's membership, and no provision existed for the group to exercise collective power.[67]

The definition of a "governmental body" is only rarely satisfied when groups of a governmental unit's employees gather on a subject within the unit's jurisdiction. Thus, for example, the Attorney General concluded that the predecessor of the current open meetings law did not apply when a department head met with some or even all of his or her staff.[68] Similarly, the Attorney General's Office has advised that the courts would be unlikely to conclude that meetings between the administrators of a governmental agency and the agency's employees, or between governmental employees and representatives of a governmental contractor were "governmental bodies" subject to the open meetings law.[69] However, where an already-existing numerically definable group of employees of a governmental entity are assigned by the entity's chief administrative officer to prepare recommendations for the entity's policy-making board, the group's meetings with respect to the subject of the directive are subject to the open meetings law.[70]

[62] OAG 67-79 (July 31, 1979) (unpublished) (the Board of Attorneys Professional Responsibility was the predecessor to the Office of Lawyer Regulation).
[63] Kosobucki Correspondence (Sept. 6, 2006).
[64] Constantine Correspondence (Feb. 28, 2000).
[65] *Conta*, 71 Wis. 2d at 681.
[66] *Showers*, 135 Wis. 2d at 102.
[67] Godlewski Correspondence (Sept. 24, 1998).
[68] 57 Op. Att'y Gen. 213, 216 (1968).
[69] Peplnjak Correspondence (June 8, 1998).
[70] Tylka Correspondence (June 8, 2005).

Definition of "Meeting"

A "meeting" is defined as:

> [T]he convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter . . . .[71]

The statute then excepts the following: an inspection of a public works project or highway by a town board; or inspection of a public works project by a town sanitary district; or the supervision, observation, or collection of information about any drain or structure related to a drain by any drainage board.[72]

- **The *Showers* Test**

  The Wisconsin Supreme Court has held that the above statutory definition of a "meeting" applies whenever a convening of members of a governmental body satisfies two requirements: (1) there is a purpose to engage in governmental business and (2) the number of members present is sufficient to determine the governmental body's course of action.[73]

  - **The Purpose Requirement**

    The first part of the *Showers* test focuses on the purpose for which the members of the governmental body are gathered. They must be gathered to conduct governmental business. *Showers* stressed that "governmental business" refers to any formal or informal action, including discussion, decision, or information gathering, on matters within the governmental body's realm of authority.[74] Thus, in *Badke*,[75] the Wisconsin Supreme Court held that the village board conducted a "meeting," as defined in the open meetings law, when a quorum of the board regularly attended each plan commission meeting to observe the commission's proceedings on a development plan that was subject to the board's approval. The court stressed that a governmental body is engaged in governmental business when its members gather to simply hear information on a matter within the body's realm of authority.[76] The members need not actually discuss the matter or otherwise interact with one another to be engaged in governmental business.[77] The court also held that the gathering of town board members was not chance or social because a majority of town board members attended plan commission meetings with regularity.[78] In contrast, the court of appeals concluded in *Paulton v. Volkmann*,[79] that no meeting occurred where a quorum of school board members attended a gathering of town residents, but did not collect information on a subject the school board had the potential to decide.

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[71] Wis. Stat. § 19.82(2).
[72] Wis. Stat. § 19.82(2).
[73] *Showers*, 135 Wis. 2d at 102.
[74] *Id.* at 102–03.
[75] *Badke*, 173 Wis. 2d at 572–74.
[76] *Id.* at 573–74.
[77] *Id.* at 574–76.
[78] *Id.* at 576.
[79] *Paulton v. Volkmann*, 141 Wis. 2d 370, 375–77, 415 N.W.2d 528 (Ct. App. 1987).

- **The Numbers Requirement**

  The second part of the *Showers* test requires that the number of members present be sufficient to determine the governmental body's course of action on the business under consideration. People often assume that this means that the open meetings law applies only to gatherings of a majority of the members of a governmental body. That is not the case because the power to control a body's course of action can refer either to the affirmative power to pass a proposal or the negative power to defeat a proposal. Therefore, a gathering of one-half of the members of a body, or even fewer, may be enough to control a course of action if it is enough to block a proposal. This is called a "negative quorum."

  Typically, governmental bodies operate under a simple majority rule in which a margin of one vote is necessary for the body to pass a proposal. Under that approach, exactly one-half of the members of the body constitutes a "negative quorum" because that number against a proposal is enough to prevent the formation of a majority in its favor. Under simple majority rule, therefore, the open meetings law applies whenever one-half or more of the members of the governmental body gather to discuss or act on matters within the body's realm of authority.

  The size of a "negative quorum" may be smaller, however, when a governmental body operates under a super majority rule. For example, if a two-thirds majority is required for a body to pass a measure, then any gathering of more than one-third of the body's members would be enough to control the body's course of action by blocking the formation of a two-thirds majority. *Showers* made it clear that the open meetings law applies to such gatherings, as long as the purpose requirement is also satisfied (*i.e.*, the gathering is for the purpose of conducting governmental business).[80] If a three-fourths majority is required to pass a measure, then more than one-fourth of the members would constitute a "negative quorum," etc.

- **Convening of Members**

  When the members of a governmental body conduct official business while acting separately, without communicating with each other or engaging in other collective action, there is no meeting within the meaning of the open meetings law.[81] Nevertheless, the phrase "convening of members" in Wis. Stat. § 19.82(2) is not limited to situations in which members of a body are simultaneously gathered in the same location, but may also include other situations in which members are able to effectively communicate with each other and to exercise the authority vested in the body, even if they are not physically present together. Whether such a situation qualifies as a "convening of members" under the open meetings law depends on the extent to which the communications in question resemble a face-to-face exchange.

  - **Written Correspondence**

    The circulation of a paper or hard copy memorandum among the members of a governmental body, for example, may involve a largely one-way flow of information, with any exchanges spread out over a considerable period of time and little or no conversation-like interaction among members. Accordingly, the Attorney General has long taken the position that such written communications generally do not constitute a "convening of members" for purposes of the open

[80] *Showers*, 135 Wis. 2d at 101–02.
[81] Katayama Correspondence (Jan. 20, 2006).

meetings law.[82] Although the rapid evolution of electronic media has made the distinction between written and oral communication less sharp than it once appeared, it is still unlikely that a Wisconsin court would conclude that the circulation of a document through the postal service, or by other means of paper or hard-copy delivery, could be deemed a "convening" or "gathering" of the members of a governmental body for purposes of the open meetings law.

- **Telephone Conference Calls**

A telephone conference call, in contrast, is very similar to an in-person conversation and thus qualifies as a convening of members.[83] Under the *Showers* test, therefore, the open meetings law applies to any conference call that: (1) is for the purpose of conducting governmental business and (2) involves a sufficient number of members of the body to determine the body's course of action on the business under consideration. To comply with the law, a governmental body conducting a meeting by telephone conference call must provide the public with an effective means to monitor the conference. This may be accomplished by broadcasting the conference through speakers located at one or more sites open to the public.[84]

- **Electronic Communications**

Written communications transmitted by electronic means, such as email, instant messaging, blogging, or other social media, also may constitute a "convening of members," depending on how the communication medium is used. Although no Wisconsin court has applied the open meetings law to these kinds of electronic communications, it is likely that the courts will try to determine whether the communications in question are more like an in-person discussion—*e.g.*, a rapid back-and-forth exchange of viewpoints among multiple members—or more like non-electronic written correspondence, which generally does not raise open meetings law concerns. If the communications closely resemble an in-person discussion, then they may constitute a meeting if they involve enough members to control an action by the body.[85] In addressing these questions, courts are likely to consider such factors as the following: (1) the number of participants involved in the communications; (2) the number of communications regarding the subject; (3) the time frame within which the electronic communications occurred; and (4) the extent of the conversation-like interactions reflected in the communications.[86]

Because the applicability of the open meetings law to such electronic communications depends on the particular way in which a specific message technology is used, these technologies create special dangers for governmental officials trying to comply with the law. Although two members of a governmental body larger than four members may generally discuss the body's business without violating the open meetings law, features like "forward" and "reply to all" common in electronic mail programs deprive a sender of control over the number and identity of the recipients who eventually may have access to the sender's message. Moreover, it is quite possible that, through the use of electronic mail, a quorum of a governmental body may receive information on a subject within the body's jurisdiction in an almost real-time basis, just as they would receive it in a physical gathering of the members.

[82] Merkel Correspondence (Mar. 11, 1993).
[83] 69 Op. Att'y Gen. 143 (1980).
[84] 69 Op. Att'y Gen. 143, 145.
[85] Krischan Correspondence (Oct. 3, 2000).
[86] Schmiege Correspondence (Aug. 22, 2018).

Inadvertent violations of the open meetings law through the use of electronic communications can be reduced if electronic mail is used principally to transmit information one-way to a body's membership; if the originator of the message reminds recipients to reply only to the originator, if at all; and if message recipients are scrupulous about minimizing the content and distribution of their replies. Nevertheless, because of the absence of judicial guidance on the subject, and because electronic mail creates the risk that it will be used to carry on private debate and discussion on matters that belong at public meetings subject to public scrutiny, the Attorney General's Office strongly discourages the members of every governmental body from using electronic mail to communicate about issues within the body's realm of authority.[87] Members of a governmental body may not decide matters by email voting, even if the result of the vote is later ratified at a properly noticed meeting.[88]

- **Walking Quorums**

The requirements of the open meetings law also extend to walking quorums. A "walking quorum" is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum.[89] In *Conta*, the court recognized the danger that a walking quorum may produce a predetermined outcome and thus render the publicly-held meeting a mere formality.[90] The court commented that any attempt to avoid the appearance of a "meeting" through use of a walking quorum is subject to prosecution under the open meetings law.[91] The requirements of the open meetings law thus cannot be circumvented by using an agent or surrogate to poll a quorum of the members of governmental bodies through a series of individual contacts. Such a circumvention "almost certainly" violates the open meetings law.[92] In contrast, simply keeping track of the votes of less than a negative quorum of the members of a governmental body is "hardly indicative" of a walking quorum.[93]

The essential feature of a "walking quorum" is the element of agreement among members of a body to act uniformly in sufficient numbers to reach a quorum. Where there is no such express or tacit agreement, exchanges among separate groups of members may take place without violating the open meetings law.[94] The signing, by members of a body, of a document asking that a subject be placed on the agenda of an upcoming meeting thus does not constitute a "walking quorum" where the signers have not engaged in substantive discussion or agreed on a uniform course of action regarding the proposed subject.[95] In contrast, where a majority of members of a body sign a document that expressly commits them to a future course of action, a court could find a walking quorum violation.[96]

- **Multiple Meetings**

When a quorum of the members of one governmental body attend a meeting of another governmental body under circumstances where their attendance is not chance or social, in order to gather information or

[87] Krischan Correspondence (Oct. 3, 2000); Benson Correspondence (Mar. 12, 2004).
[88] I-01-10 (Jan. 25, 2010).
[89] *Showers*, 135 Wis. 2d at 92 (quoting *Conta*, 71 Wis. 2d at 687).
[90] *Conta*, 71 Wis. 2d at 685–88.
[91] *Id.* at 687.
[92] Clifford Correspondence (Apr. 28, 1986) (individual polling of every member is a prohibited walking quorum); Herbst Correspondence (July 16, 2008) (individually polling of a quorum of members is a prohibited walking quorum).
[93] *State ex rel. Zecchino v. Dane Cty. Bd. of Supervisors*, 2018 WI App 19, ¶¶ 11–14, 380 Wis. 2d 453, 909 N.W.2d 203 (individual polling of less than a negative quorum of members is not a prohibited walking quorum).
[94] *Id.* ¶ 10.
[95] Kay Correspondence (Apr. 25, 2007); Kittleson Correspondence (June 13, 2007).
[96] Huff Correspondence (Jan. 15, 2008); *see also* I-01-10 (Jan. 25, 2010) (use of email voting to decide matters fits the definition of a "walking quorum" violation of the open meetings law).

otherwise engage in governmental business regarding a subject over which they have decision-making responsibility, two separate meetings occur, and notice must be given of both meetings.[97] The Attorney General has advised that, despite the "separate public notice" requirement of Wis. Stat. § 19.84(4), a single notice can be used, provided that the notice clearly and plainly indicates that a joint meeting will be held and gives the names of each of the bodies involved, and provided that the notice is published and/or posted in each place where meeting notices are generally published or posted for each governmental body involved.[98]

The kinds of multiple meetings presented in the *Badke* case, and the separate meeting notices required there, must be distinguished from circumstances where a subunit of a parent body meets during a recess from or immediately following the parent body's meeting, to discuss or act on a matter that was the subject of the parent body's meeting. In such circumstances, Wis. Stat. § 19.84(6) allows the subunit to meet on that matter without prior public notice.

- **Burden of Proof as to Existence of a Meeting**

The presence of members of a governmental body does not, in itself, establish the existence of a "meeting" subject to the open meetings law. The law provides, however, that if one-half or more of the members of a body are present, the gathering is presumed to be a "meeting."[99] The law also exempts any "social or chance gathering" not intended to circumvent the requirements of the open meetings law.[100] Thus, where one-half or more of the members of a governmental body rode to a meeting in the same vehicle, the law presumes that the members conducted a "meeting" which was subject to all of the requirements of the open meetings law.[101] Similarly, where a majority of members of a common council gathered at a lounge immediately following a common council meeting, a violation of the open meetings law was presumed.[102] The members of the governmental body may overcome the presumption by proving that they did not discuss any subject that was within the realm of the body's authority.[103]

Where a person alleges that a gathering of less than one-half the members of a governmental body was held in violation of the open meetings law, that person has the burden of proving that the gathering constituted a "meeting" subject to the law.[104] That burden may be satisfied by proving: (1) that the members gathered to conduct governmental business and (2) that there was a sufficient number of members present to determine the body's course of action.

Again, it is important to remember that the overriding policy of the open meetings law is to ensure public access to information about governmental affairs. Under the rule of liberally construing the law to ensure this purpose, any doubts as to whether a particular gathering constitutes a "meeting" subject to the open meetings law should be resolved in favor of complying with the provisions of the law.

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[97] *Badke*, 173 Wis. 2d at 577.
[98] Friedman Correspondence (Mar. 4, 2003).
[99] Wis. Stat. § 19.82(2).
[100] Wis. Stat. § 19.82(2).
[101] Karstens Correspondence (July 31, 2008).
[102] Dieck Correspondence (Sept. 12, 2007).
[103] *Id*.
[104] *Showers*, 135 Wis. 2d at 102.

WHAT IS REQUIRED IF THE OPEN MEETINGS LAW APPLIES?

The two most basic requirements of the open meetings law are that a governmental body:

(1) give advance public notice of each of its meetings, and

(2) conduct all of its business in open session, unless an exemption to the open session requirement applies.[105]

Notice Requirements

Wisconsin Stat. § 19.84, which sets forth the public notice requirements, specifies when, how, and to whom notice must be given, as well as what information a notice must contain.

- **To Whom and How Notice Must Be Given**

  The chief presiding officer of a governmental body, or the officer's designee, must give notice of each meeting of the body to: (1) the public; (2) any members of the news media who have submitted a written request for notice; and (3) the official newspaper designated pursuant to state statute or, if none exists, a news medium likely to give notice in the area.[106]

  The chief presiding officer may give notice of a meeting to the public by posting the notice in one or more places likely to be seen by the general public.[107] As a general rule, the Attorney General has advised posting notices at three different locations within the jurisdiction that the governmental body serves.[108] Alternatively, the chief presiding officer may give notice to the public by paid publication in a news medium likely to give notice in the jurisdictional area the body serves.[109] If the presiding officer gives notice in this manner, he or she must ensure that the notice is actually published.[110] Meeting notices may also be posted at a governmental body's website as a supplement to other public notices, but web posting should not be used as a substitute for other methods of notice.[111] Nothing in the open meetings law prevents a governmental body from determining that multiple notice methods are necessary to provide adequate public notice of the body's meetings.[112] If a meeting notice is posted on a governmental body's website, amendments to the notice should also be posted.[113]

  The chief presiding officer must also give notice of each meeting to members of the news media who have submitted a written request for notice.[114] Although this notice may be given in writing or by telephone,[115] it is preferable to give notice in writing to help ensure accuracy and so that a record of the notice exists.[116]

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[105] Wis. Stat. § 19.83.
[106] Wis. Stat. § 19.84(1)(b).
[107] 66 Op. Att'y Gen. 93, 95.
[108] 66 Op. Att'y Gen. 93, 95.
[109] 63 Op. Att'y Gen. 509, 510–11 (1974).
[110] Kaufmann Correspondence (Apr. 24, 2019).
[111] Peck Correspondence (Apr. 17, 2006).
[112] Skindrud Correspondence (Mar. 12, 2009).
[113] Eckert Correspondence (July 25, 2007).
[114] Wis. Stat. § 19.84(1)(b); *Lawton*, 2005 WI App 16, ¶¶ 3–4, 7.
[115] 65 Op. Att'y Gen. Preface, v–vi (1976).
[116] 65 Op. Att'y Gen. 250, 251 (1976).

Governmental bodies cannot charge the news media for providing statutorily required notices of public meetings.[117]

In addition, the chief presiding officer must give notice to the officially designated newspaper or, if none exists, to a news medium likely to give notice in the area.[118] The governmental body is not required to pay for and the newspaper is not required to publish such notice.[119] Note, however, that the requirement to provide notice to the officially designated newspaper is distinct from the requirement to provide notice to the public. If the chief presiding officer chooses to provide notice to the public by paid publication in a news medium, the officer must ensure that the notice is in fact published.[120]

When a specific statute prescribes the type of meeting notice a governmental body must give, the body must comply with the requirements of that statute as well as the notice requirements of the open meetings law.[121] However, violations of those other statutory requirements are not redressable under the open meetings law. For example, the open meetings law is not implicated by a municipality's alleged failure to comply with the public notice requirements of Wis. Stat. ch. 985 when providing published notice of public hearings on proposed tax incremental financing districts.[122] Where a class 1 notice under Wis. Stat. ch. 985 has been published, however, the public notice requirement of the open meetings law is also thereby satisfied.[123]

- **Contents of Notice**

  - **In General**

    Every public notice of a meeting must give the "time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof."[124] The chief presiding officer of the governmental body is responsible for providing notice, and when he or she is aware of matters which may come before the body, those matters must be included in the meeting notice.[125] The Attorney General's Office has advised that a chief presiding officer may not avoid liability for a legally deficient meeting notice by assigning to a non-member of the body the responsibility to create and provide a notice that complies with Wis. Stat. § 19.84(2).[126]

    A frequently recurring question is how specific a subject-matter description in a meeting notice must be. Prior to June 13, 2007, this question was governed by the "bright-line" rule articulated in *State ex rel. H.D. Enterprises II, LLC v. City of Stoughton*.[127] Under that standard, a meeting notice adequately described a subject if it identified "the general topic of items to be discussed" and the simple heading "licenses," without more, was found sufficient to apprise the public that a city council would reconsider a previous decision to deny a liquor license to a particular local grocery store.[128]

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[117] 77 Op. Att'y Gen. 312, 313 (1988).
[118] Wis. Stat. § 19.84(1)(b); *Lawton*, 2005 WI App 16, ¶¶ 3–4, 7.
[119] 66 Op. Att'y Gen. 230, 231 (1977).
[120] Kaufmann Correspondence (Apr. 24, 2019).
[121] Wis. Stat. § 19.84(1)(a).
[122] *See* Boyle Correspondence (May 4, 2005).
[123] Stalle Correspondence (Apr. 10, 2008).
[124] Wis. Stat. § 19.84(2).
[125] 66 Op. Att'y Gen. 68, 70 (1977).
[126] Schuh Correspondence (Oct. 17, 2001).
[127] *State ex rel. H.D. Enters. II, LLC v. City of Stoughton*, 230 Wis. 2d 480, 602 N.W.2d 72 (Ct. App. 1999).
[128] *Id.* at 486–87.

On June 13, 2007, the Wisconsin Supreme Court overruled *H.D. Enterprises* and announced a new standard to be applied prospectively to all meeting notices issued after that date.[129] In *State ex rel. Buswell v. Tomah Area School District*, the court held that a public notice for a closed session for the purpose of "consideration and/or action concerning employment/negotiations with district personnel pursuant to Wis. Stat. § 19.85(1)(c)" was vague, misleading and legally insufficient, where the school board tentatively approved a collective bargaining agreement between it and the teacher's union.[130] In reaching that conclusion, the court determined that "the plain meaning of Wis. Stat. § 19.84(2) sets forth a reasonableness standard, and that such a standard strikes the proper balance contemplated in Wis. Stat. §§ 19.81(1) and (4) between the public's right to information and the government's need to efficiently conduct its business."[131] This reasonableness standard "requires a case-specific analysis" and "whether notice is sufficiently specific will depend upon what is reasonable under the circumstances."[132] In making that determination, the factors to be considered include: "[1] the burden of providing more detailed notice, [2] whether the subject is of particular public interest, and [3] whether it involves non-routine action that the public would be unlikely to anticipate."[133]

The first factor "balances the policy of providing greater information with the requirement that providing such information be 'compatible with the conduct of governmental affairs.' Wis. Stat. § 19.81(1)."[134] The determination must be made on a case-by-case basis.[135] "[T]he demands of specificity should not thwart the efficient administration of governmental business."[136]

The second factor takes into account "both the number of people interested and the intensity of that interest," though the level of interest is not dispositive, and must be balanced with other factors on a case-by-case basis.[137]

The third factor considers "whether the subject of the meeting is routine or novel."[138] There may be less need for specificity where a meeting subject occurs routinely, because members of the public are more likely to anticipate that the subject will be addressed.[139] "Novel issues may . . . require more specific notice."[140]

Whether a meeting notice is reasonable, according to the court, "cannot be determined from the standpoint of when the meeting actually takes place," but rather must be "based upon what information is available to the officer noticing the meeting at the time the notice is provided, and based upon what it would be reasonable for the officer to know."[141] Once reasonable notice has been given, "meeting participants would be free to discuss any aspect of the noticed subject matter, as well as issues that are reasonably related to it."[142] However, "a meeting cannot address topics

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[129] *State ex rel. Buswell v. Tomah Area Sch. Dist.*, 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804.
[130] *Id.* ¶¶ 6–7, 37–38, 41.
[131] *Id.* ¶ 3.
[132] *Id.* ¶ 22.
[133] *Id.* ¶ 28.
[134] *Buswell*, 2007 WI 71, ¶ 29.
[135] *Id.*
[136] *Id.*
[137] *Id.* ¶ 30.
[138] *Id.* ¶ 31.
[139] *Id.*
[140] *Id.*
[141] *Id.* ¶ 32.
[142] *Id.* ¶ 34.

unrelated to the information in the notice."[143] The Attorney General has similarly advised, in an informal opinion, that if a meeting notice contains a general subject matter designation and a subject that was not specifically noticed comes up at the meeting, a governmental body should refrain from engaging in any information gathering or discussion or from taking any action that would deprive the public of information about the conduct of governmental business.[144]

Whether a meeting notice reasonably apprises the public of the meeting's subject matter may also depend in part on the surrounding circumstances. A notice that might be adequate, standing alone, may nonetheless fail to provide reasonable notice if it is accompanied by other statements or actions that expressly contradict it, or if the notice is misleading when considered in the light of long-standing policies of the governmental body.[145]

In order to draft a meeting notice that complies with the reasonableness standard, a good rule of thumb will be to ask whether a person interested in a specific subject would be aware, upon reading the notice, that the subject might be discussed. In an unpublished, post-*Buswell* decision, the court of appeals determined that a meeting notice for a closed session of a school board under Wis. Stat. § 19.85(1)(c) for the purpose of "[d]iscussion of the role, duties, and responsibilities of the [l]ibrary [d]irector and evaluation of job performance and possible action" gave sufficient public notice of the board's discussion of the discipline and termination of the library director.[146] The court reasoned that, under *Buswell*, the "sufficiency of the notice will be based on the knowledge of the person posting notice at the time when it is posted."[147]

- **Generic Agenda Items**

Purely generic subject matter designations such as "old business," "new business," "miscellaneous business," "agenda revisions," or "such other matters as are authorized by law" are insufficient because, standing alone, they identify no particular subjects at all.[148] Similarly, the use of a notice heading that merely refers to an earlier meeting of the governmental body (or of some other body) without identifying any particular subject of discussion is so lacking in informational value that it almost certainly fails to give the public reasonable notice of what the governmental body intends to discuss.[149] If such a notice is meant to indicate an intent to simply receive and approve minutes of the designated meeting, it should so indicate and discussion should be limited to whether the minutes accurately reflect the substance of that meeting.[150]

Likewise, the Attorney General has advised that the practice of using such designations as "mayor comments," "alderman comments," or "staff comments" for the purpose of communicating information on matters within the scope of the governmental body's authority "is, at best, at the outer edge of lawful practice, and may well cross the line to become unlawful."[151] Because members and officials of governmental bodies have greater opportunities for input into the agenda-setting

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[143] *Id.*
[144] I-05-93 (Apr. 26, 1993).
[145] Linde Correspondence (May 4, 2007); Koss Correspondence (May 30, 2007); Musolf Correspondence (July 13, 2007); Martinson Correspondence (Mar. 2, 2009).
[146] *State ex rel. Wanninger v. City of Manitowoc Pub. Library Bd.*, No. 2011AP1059, 2012 WL 1192048, ¶¶ 19–21 (Wis. Ct. App. Apr. 11, 2012) (unpublished).
[147] *Id.* ¶ 21 (citing *Buswell*, 2007 WI 71, ¶ 32).
[148] Becker Correspondence (Nov. 30, 2004); Heupel Correspondence (Aug. 29, 2006).
[149] Erickson Correspondence (Apr. 22, 2009).
[150] *Id.*
[151] Rude Correspondence (Mar. 5, 2004).

process than the public has, they should be held to a higher standard of specificity regarding the subjects they intend to address.[152]

o Action Agenda Items

The Wisconsin Court of Appeals has noted that "Wis. Stat. § 19.84(2) does not expressly require that the notice indicate whether a meeting will be purely deliberative or if action will be taken."[153] The *Buswell* decision inferred from this that "adequate notice . . . may not require information about whether a vote on a subject will occur, so long as the subject matter of the vote is adequately specified."[154] Both in *Olson* and in *Buswell*, however, the courts reiterated the principle—first recognized in *Badke*[155]—that the information in the notice must be sufficient to alert the public to the importance of the meeting, so that they can make an informed decision whether to attend.[156] The *Olson* decision thus acknowledged that, in some circumstances, a failure to expressly state whether action will be taken at a meeting could be a violation of the open meetings law.[157] Although the courts have not articulated the specific standard to apply to this question, it appears to follow from *Buswell* that the test would be whether, under the particular factual circumstances of the case, the notice reasonably alerts the public to the importance of the meeting.[158]

Another frequently asked question is whether a governmental body may act on a motion for reconsideration of a matter voted on at a previous meeting, if the motion is brought under a general subject matter designation. The Attorney General has advised that a member may move for reconsideration under a general subject matter designation, but that any discussion or action on the motion should be set over to a later meeting for which specific notice of the subject matter of the motion is given.[159]

o Notice of Closed Sessions

The notice provision in Wis. Stat. § 19.84(2) requires that if the chief presiding officer or the officer's designee knows at the time he or she gives notice of a meeting that a closed session is contemplated, the notice must contain the subject matter to be considered in closed session. Such notice "must contain enough information for the public to discern whether the subject matter is authorized for closed session under § 19.85(1)."[160] The Attorney General has advised that notice of closed sessions must contain the specific nature of the business, as well as the exemption(s) under which the chief presiding officer believes a closed session is authorized.[161] Merely identifying and quoting from a statutory exemption does not reasonably identify any particular subject that might be taken up thereunder and thus is not adequate notice of a closed session.[162] In *State ex rel. Schaeve v. Van Lare*, the court held that a notice to convene in closed session under Wis. Stat. § 19.85(1)(b) "to conduct a hearing to consider the possible discipline of a public employee" was sufficient.[163]

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[152] Thompson Correspondence (Sept. 3, 2004).
[153] *State ex rel. Olson v. City of Baraboo Joint Review Bd.*, 2002 WI App 64, ¶ 15, 252 Wis. 2d 628, 643 N.W.2d 796.
[154] *Buswell*, 2007 WI 71, ¶ 37 n.7.
[155] *Badke*, 173 Wis. 2d at 573-74, 577–78.
[156] *Buswell*, 2007 WI 71, ¶ 26; *Olson*, 2002 WI App 64, ¶ 15.
[157] *Olson*, 2002 WI App 64, ¶ 15.
[158] Herbst Correspondence (July 16, 2008).
[159] Bukowski Correspondence (May 5, 1986).
[160] *Buswell*, 2007 WI 71, ¶ 37 n.7.
[161] 66 Op. Att'y Gen. 93, 98.
[162] Weinschenk Correspondence (Dec. 29, 2006); Anderson Correspondence (Feb. 13, 2007).
[163] *State ex rel. Schaeve v. Van Lare*, 125 Wis. 2d 40, 47, 370 N.W.2d 271 (Ct. App. 1985).

- **Time of Notice**

The provision in Wis. Stat. § 19.84(3) requires that every public notice of a meeting be given at least 24 hours in advance of the meeting, unless "for good cause" such notice is "impossible or impractical." If "good cause" exists, the notice should be given as soon as possible and must be given at least two hours in advance of the meeting.[164]

No Wisconsin court decisions or Attorney General opinions discuss what constitutes "good cause" to provide less than twenty-four-hour notice of a meeting. This provision, like all other provisions of the open meetings law, must be construed in favor of providing the public with the fullest and most complete information about governmental affairs as is compatible with the conduct of governmental business.[165] If there is any doubt whether "good cause" exists, the governmental body should provide the full twenty-four-hour notice.

When calculating the twenty-four hour notice period, Wis. Stat. § 990.001(4)(a) requires that Sundays and legal holidays shall be excluded. Posting notice of a Monday meeting on the preceding Sunday is, therefore, inadequate, but posting such notice on the preceding Saturday would suffice, as long as the posting location is open to the public on Saturdays.[166]

Wisconsin Stat. § 19.84(4) provides that separate notice for each meeting of a governmental body must be given at a date and time reasonably close to the meeting date. A single notice that lists all the meetings that a governmental body plans to hold over a given week, month, or year does not comply with the notice requirements of the open meetings law.[167] Similarly, a meeting notice that states that a quorum of various town governmental bodies may participate at the same time in a multi-month, on-line discussion of town issues fails to satisfy the "separate notice" requirement.[168]

University of Wisconsin departments and their subunits, as well as the Olympic ice training rink, are exempt from the specific notice requirements in Wis. Stat. § 19.84(1)–(4). Those bodies are simply required to provide notice "which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice."[169] Also exempt from the specific notice requirements are certain meetings of subunits of parent bodies held during or immediately before or after a meeting of the parent body.[170]

- **Compliance with Notice**

A governmental body, when conducting a meeting, is free to discuss any aspect of any subject identified in the public notice of that meeting, as well as issues reasonably related to that subject, but may not address any topics that are not reasonably related to the information in the notice.[171] There is no requirement, however, that a governmental body must follow the agenda in the order listed on the meeting notice, unless a particular agenda item has been noticed for a specific time.[172] Nor is a governmental body required to actually discuss every item contained in the public notice. It is reasonable, in appropriate circumstances, for a body to cancel a previously planned discussion or postpone it to a later date.[173]

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[164] Wis. Stat. § 19.84(3).
[165] Wis. Stat. § 19.81(1), (4).
[166] Caylor Correspondence (Dec. 6, 2007).
[167] *See* 63 Op. Att'y Gen. 509, 513.
[168] Connors/Haag Correspondence (May 26, 2009).
[169] Wis. Stat. § 19.84(5).
[170] *See* Wis. Stat. § 19.84(6).
[171] *Buswell*, 2007 WI 71, ¶ 34.
[172] Stencil Correspondence (Mar. 6, 2008).
[173] Black Correspondence (Apr. 22, 2009).

Open Session Requirements

- **Accessibility**

In addition to requiring advance public notice of every meeting of a governmental body, the open meetings law also requires that "all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times."[174] Similarly, an "open session" is defined in Wis. Stat. § 19.82(3) as "a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times." Every meeting of a governmental body must initially be convened in "open session."[175] All business of any kind, formal or informal, must be initiated, discussed, and acted upon in "open session," unless one of the exemptions set forth in Wis. Stat. § 19.85(1) applies.[176]

The requirement that meeting locations be reasonably accessible to the public and open to all citizens at all times means that governmental bodies must hold their meetings in rooms that are reasonably calculated to be large enough to accommodate all citizens who wish to attend the meetings.[177] Absolute access is not, however, required.[178] In *Badke*, for instance, the Wisconsin Supreme Court concluded that a village board meeting that was held in a village hall capable of holding 55–75 people was reasonably accessible, although three members of the public were turned away due to overcrowding.[179] Whether a meeting place is reasonably accessible depends on the facts in each individual case. Any doubt as to whether a meeting facility is large enough to satisfy the requirement should be resolved in favor of holding the meeting in a larger facility.

The policy of openness and accessibility favors governmental bodies holding their meetings in public places, such as a municipal hall or school, rather than on private premises.[180] The law prohibits meetings on private premises that are not open and reasonably accessible to the public.[181] Generally speaking, places such as a private room in a restaurant or a dining room in a private club are not considered "reasonably accessible." A governmental body should meet on private premises only in exceptional cases, where the governmental body has a specific reason for doing so which does not compromise the public's right to information about governmental affairs.

The policy of openness and accessibility also requires that governmental bodies hold their meetings at locations near to the public they serve. Accordingly, the Attorney General has concluded that a school board meeting held forty miles from the district which the school board served was not "reasonably accessible" within the meaning of the open meetings law.[182] The Attorney General advises that, in order to comply with the "reasonably accessible" requirement, governmental bodies should conduct all their meetings at a location within the territory they serve, unless there are special circumstances that make it impossible or impractical to do so.[183]

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[174] Wis. Stat. § 19.81(2).
[175] *See* Wis. Stat. §§ 19.83, 19.85(1).
[176] Wis. Stat. § 19.83.
[177] *Badke*, 173 Wis. 2d at 580–81.
[178] *Id.*
[179] *Id.* at 561, 563, 581.
[180] *See* 67 Op. Att'y Gen. 125, 127 (1978).
[181] Wis. Stat. § 19.82(3).
[182] Miller Correspondence (May 25, 1977).
[183] I-29-91 (Oct. 17, 1991).

Occasionally, a governmental body may need to leave the place where the meeting began in order to accomplish its business—*e.g.*, inspection of a property or construction projects. The Attorney General's Office has advised that such off-site business may be conducted consistently with the requirements of the open meetings law, as long as certain precautions are taken. First, the public notice of the meeting must list all of the locations to be visited in the order in which they will be visited. This makes it possible for a member of the public to follow the governmental body to each location or to join the governmental body at any particular location. Second, each location at which government business is to be conducted must itself be reasonably accessible to the public at all times when such business is taking place. Third, care must be taken to ensure that government business is discussed only during those times when the members of the body are convened at one of the particular locations for which notice has been given. The members of the governmental body may travel together or separately, but if half or more of them travel together, they may not discuss government business when their vehicle is in motion, because a moving vehicle is not accessible to the public.[184]

- **Access for Persons with Disabilities**

The public accessibility requirements of the open meetings law have long been interpreted by the Attorney General as meaning that every meeting subject to the law must be held in a location that is "reasonably accessible to all citizens, including those with disabilities."[185] In selecting a meeting facility that satisfies this requirement, a local governmental body has more leeway than does a state governmental body. For a state body, the facility must have physical characteristics that permit persons with functional limitations to enter, circulate, and leave the facility *without* assistance.[186] In the case of a local governmental body, however, a meeting facility must have physical characteristics that permit persons with functional limitations to enter, circulate, and leave the facility *with* assistance.[187] In order to optimally comply with the spirit of open government, however, local bodies should also, whenever possible, meet in buildings and rooms that are accessible without assistance.

The Americans with Disabilities Act and other federal laws governing the rights of persons with disabilities may additionally require governmental bodies to meet accessibility and reasonable accommodation requirements that exceed the requirements imposed by Wisconsin's open meetings law. For more detailed assistance regarding such matters, both government officials and members of the public are encouraged to consult with their own attorneys or to contact the appropriate federal enforcement authorities.

- **Tape Recording and Videotaping**

The open meetings law grants citizens the right to attend and observe meetings of governmental bodies that are held in open session. The open meetings law also grants citizens the right to tape record or videotape open session meetings, as long as doing so does not disrupt the meeting. The law explicitly states that a governmental body must make a reasonable effort to accommodate anyone who wants to record, film, or photograph an open session meeting, as long as the activity does not interfere with the meeting.[188]

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[184] Rappert Correspondence (Apr. 8, 1993); Musolf Correspondence (July 13, 2007).
[185] 69 Op. Att'y Gen. 251, 252 (1980).
[186] *See* Wis. Stat. §§ 19.82(3), 101.13(1); 69 Op. Att'y Gen. 251, 252.
[187] 69 Op. Att'y Gen. 251, 253.
[188] Wis. Stat. § 19.90.

In contrast, the open meetings law does not require a governmental body to permit recording of an authorized closed session.[189] If a governmental body wishes to record its own closed meetings, it should arrange for the security of the records to prevent their improper disclosure.[190]

- **Citizen Participation**

In general, the open meetings law grants citizens the right to attend and observe open session meetings of governmental bodies, but does not require a governmental body to allow members of the public to speak or actively participate in the body's meeting.[191] There are some other state statutes that require governmental bodies to hold public hearings on specified matters.[192] Unless such a statute specifically applies, however, a governmental body is free to determine for itself whether and to what extent it will allow citizen participation at its meetings.[193]

Although it is not required, the open meetings law does permit a governmental body to set aside a portion of an open meeting as a public comment period.[194] Such a period must be included on the meeting notice. During such a period, the body may receive information from the public and may discuss any matter raised by the public. If a member of the public raises a subject that does not appear on the meeting notice, however, it is advisable to limit the discussion of that subject and to defer any extensive deliberation to a later meeting for which more specific notice can be given. In addition, the body may not take formal action on a subject raised in the public comment period, unless that subject is also identified in the meeting notice.[195]

- **Ballots, Votes, and Records, Including Meeting Minutes**

No secret ballot may be used to determine any election or decision of a governmental body, except the election of officers of a body.[196] For example, a body cannot vote by secret ballot to fill a vacancy on a city council.[197] If a member of a governmental body requests that the vote of each member on a particular matter be recorded, a voice vote or a vote by a show of hands is not permissible unless the vote is unanimous and the minutes reflect who is present for the vote.[198] A governmental body may not use email ballots to decide matters, even if the result of the vote is later ratified at a properly noticed meeting.[199]

The open meetings law requires a governmental body to create and preserve a record of all motions and roll-call votes at its meetings.[200] This requirement applies to both open and closed sessions.[201] Written minutes are the most common method used to comply with the requirement, but they are not the only permissible method. It can also be satisfied if the motions and roll-call votes are recorded and preserved in some other way, such as on a tape recording.[202] As long as the body creates and preserves a record of all motions and roll-call votes, it is not required by the open meetings law to take more formal or detailed minutes of other aspects of the meeting. Other statutes outside the open meetings law, however, may

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[189] 66 Op. Att'y Gen. 318, 325 (1977); Maroney Correspondence (Oct. 31, 2006).
[190] 66 Op. Att'y Gen. 318, 325.
[191] Lundquist Correspondence (Oct. 25, 2005).
[192] *See, e.g.*, Wis. Stat. §§ 65.90(4) (requiring public hearing before adoption of a municipal budget), 66.1105(4)(a) (requiring public hearing before creation of a tax incremental finance district).
[193] Zwieg Correspondence (July 13, 2006); Chiaverotti Correspondence (Sept. 19, 2006).
[194] Wis. Stat. §§ 19.83(2), 19.84(2).
[195] Sayles Correspondence (Aug. 4, 2017).
[196] Wis. Stat. § 19.88(1).
[197] 65 Op. Att'y Gen. 131 (1976).
[198] I-95-89 (Nov. 13, 1989).
[199] I-01-10 (Jan. 25, 2010).
[200] Wis. Stat. § 19.88(3).
[201] De Moya Correspondence (June 17, 2009).
[202] I-95-89 (Nov. 13, 1989).

prescribe particular minute-taking requirements for certain governmental bodies and officials that go beyond what is required by the open meetings law.[203]

The open meetings law does not specify a timeframe in which a body must create a record of all motions and roll-call votes. In the absence of a specific statutory timeframe, issues can arise. In *Journal Times v. City of Racine Board of Police and Fire Commissioners*,[204] the Racine Board of Police and Fire Commissioners voted on a motion in a closed session meeting, but did not contemporaneously create a record of the motion. Instead, the motion was included in the minutes of the meeting, which were not finished and approved by the Commission until three months after the meeting. In a non-party brief, DOJ argued that Wis. Stat. § 19.88(3) should be construed as requiring that a record of all motions must be made at the time of the meeting in question or as soon thereafter as practicable.[205] While the court resolved the case on other grounds without deciding this issue, as a best practice, it is advisable that the motions and roll call votes of a meeting of a governmental body be recorded at the time of the meeting or as soon thereafter as practicable.

Although Wis. Stat. § 19.88(3) does not indicate how detailed the record of motions and votes should be, the general legislative policy of the open meetings law is that "the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."[206] In light of that policy, it seems clear that a governmental body's records should provide the public with a reasonably intelligible description of the essential substantive elements of every motion made, who initiated and seconded the motion, the outcome of any vote on the motion, and, if a roll-call vote, how each member voted.[207]

Nothing in the open meetings law prohibits a body from making decisions by general consent, without a formal vote, but such informal procedures are typically only appropriate for routine procedural matters such as approving the minutes of prior meetings or adjourning. In any event, regardless of whether a decision is made by consensus or by some other method, Wis. Stat. § 19.88(3) still requires the body to create and preserve a meaningful record of that decision.[208] "Consent agendas," whereby a body discusses individual items of business under separate agenda headings, but takes action on all discussed items by adopting a single motion to approve all the items previously discussed, are likely insufficient to satisfy the recordkeeping requirements of Wis. Stat. § 19.88(3).[209]

Wisconsin Stat. § 19.88(3) also provides that meeting records created under that statute—whether for an open or a closed session—must be open to public inspection to the extent prescribed in the state public records law. Because the records law contains no general exemption for records created during a closed session, a custodian must release such items unless the particular record at issue is subject to a specific statutory exemption or the custodian concludes that the harm to the public from its release would outweigh the benefit to the public.[210] There is a strong presumption under the public records law that release of records is in the public interest. As long as the reasons for convening in closed session continue to exist, however, the custodian may be able to justify not disclosing any information that requires confidentiality. But the custodian still must separate information that can be made public from that which cannot and must disclose the former, even if the latter can be withheld. In addition, once the underlying purpose for the

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[203] I-20-89 (Mar. 8, 1989); s*ee, e.g.*, Wis. Stat. §§ 59.23(2)(a) (county clerk), 60.33(2)(a) (town clerk), 61.25(3) (village clerk), 62.09(11)(b) (city clerk), 62.13(5)(i) (police and fire commission), 66.1001(4)(b) (plan commission), 70.47(7)(bb) (board of review).

[204] *Journal Times v. City of Racine Bd. of Police & Fire Comm'rs*, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563.

[205] Non-party Brief of Wisconsin Department of Justice at 6, *Journal Times v. City of Racine Bd. of Police & Fire Comm'rs*, 2015 WI 56 (No. 2013AP1715).

[206] Wis. Stat. § 19.81(1).

[207] De Moya Correspondence (June 17, 2009).

[208] Huebscher Correspondence (May 23, 2008).

[209] Perlick Correspondence (May 12, 2005).

[210] De Moya Correspondence (June 17, 2009).

closed session ceases to exist, all records of the session must then be provided to any person requesting them.[211]

WHEN IS IT PERMISSIBLE TO CONVENE IN CLOSED SESSION?

Every meeting of a governmental body must initially be convened in open session. All business of any kind, formal or informal, must be initiated, discussed, and acted upon in open session unless one of the exemptions in Wis. Stat. § 19.85(1) applies.[212]

Notice of Closed Session

The notice provision in Wis. Stat. § 19.84(2) requires that, if the chief presiding officer of a governmental body is aware that a closed session is contemplated at the time he or she gives public notice of the meeting, the notice must contain the subject matter of the closed session.

If the chief presiding officer was not aware of a contemplated closed session at the time he or she gave notice of the meeting, that does not foreclose a governmental body from going into closed session under Wis. Stat. § 19.85(1) to discuss an item contained in the notice for the open session.[213] In both cases, a governmental body must follow the procedure set forth in Wis. Stat. § 19.85(1) before going into closed session.

Procedure for Convening in Closed Session

Every meeting of a governmental body must initially be convened in open session.[214] Before convening in closed session, the governmental body must follow the procedure set forth in Wis. Stat. § 19.85(1) which requires that the governmental body pass a motion, by recorded majority vote, to convene in closed session. If a motion is unanimous, there is no requirement to record the votes individually.[215] Before the governmental body votes on the motion, the chief presiding officer must announce and record in open session the nature of the business to be discussed and the specific statutory exemption which is claimed to authorize the closed session.[216] Stating only the statute section number of the applicable exemption is not sufficient because many exemptions contain more than one reason for authorizing closure. For example, Wis. Stat. § 19.85(1)(c) allows governmental bodies to use closed sessions to interview candidates for positions of employment, to consider promotions of particular employees, to consider the compensation of particular employees, and to conduct employee evaluations—each of which is a different reason that should be identified in the meeting notice and in the motion to convene into closed session.[217] Similarly, merely identifying and quoting from a statutory exemption does not adequately announce what particular part of the governmental body's business is to be considered under that exemption.[218] Enough specificity is needed in describing the subject matter of the contemplated closed meeting to enable the members of the governmental body to intelligently vote on the motion to close the meeting.[219] If several exemptions are relied on to authorize a closed discussion of several subjects, the motion should make it clear which exemptions correspond

[211] *See* 67 Op. Att'y Gen. 117, 119 (1978).
[212] Wis. Stat. § 19.83.
[213] 66 Op. Att'y Gen. 106, 108 (1977).
[214] Wis. Stat. §§ 19.83, 19.85(1).
[215] *Schaeve*, 125 Wis. 2d at 51.
[216] 66 Op. Att'y Gen. 93, 97-98.
[217] Reynolds/Kreibich Correspondence (Oct. 23, 2003).
[218] Weinschenk Correspondence (Dec. 29, 2006); Anderson Correspondence (Feb. 13, 2007).
[219] Heule Correspondence (June 29, 1977); *see also Buswell*, 2007 WI 71, ¶ 37 n.7.

to which subjects.[220] The governmental body must limit its discussion in closed session to the business specified in the announcement.[221]

Authorized Closed Sessions

Wisconsin Stat. § 19.85(1) contains eleven exemptions to the open session requirement which permit, but do not require, a governmental body to convene in closed session.[222] Because the law is designed to provide the public with the most complete information possible regarding the affairs of government, exemptions should be strictly construed.[223] The policy of the open meetings law dictates that the exemptions be invoked sparingly and only where necessary to protect the public interest. If there is any doubt as to whether closure is permitted under a given exemption, the governmental body should hold the meeting in open session.[224]

The following are some of the most frequently cited exemptions.

- **Judicial or Quasi-Judicial Hearings**

  Wisconsin Stat. § 19.85(1)(a) authorizes a closed session for "[d]eliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body." In order for this exemption to apply, there must be a "case" that is the subject of a quasi-judicial proceeding.[225] The Wisconsin Supreme Court held that the term "case" contemplates a controversy among parties that are adverse to one another; it does not include a mere request for a permit.[226] An example of a governmental body that considers "cases" and thus can convene in closed session under Wis. Stat. § 19.85(1)(a), where appropriate, is the Wisconsin Employment Relations Commission.[227] Bodies that consider zoning appeals, such as boards of zoning appeals and boards of adjustment, may not convene in closed session.[228] The meetings of town, village, and city boards of review regarding appeals of property tax assessments must also be conducted in open session.[229]

- **Employment and Licensing Matters**

  - **Consideration of Dismissal, Demotion, Discipline, Licensing, and Tenure**

    Two of the statutory exemptions to the open session requirement relate specifically to employment or licensing of an individual. The first, Wis. Stat. § 19.85(1)(b), authorizes a closed session for:

    > Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter . . . .

[220] Brisco Correspondence (Dec. 13, 2005).
[221] Wis. Stat. § 19.85(1).
[222] Krueger Correspondence (Feb. 13, 2019).
[223] *State ex rel. Hodge v. Town of Turtle Lake*, 180 Wis. 2d 62, 71, 508 N.W.2d 603 (1993); *Citizens for Responsible Dev.*, 2007 WI App 114, ¶ 8.
[224] *See* 74 Op. Att'y Gen. 70, 73 (1985).
[225] *Hodge*, 180 Wis. 2d at 72; *cf. State ex rel. Cities Serv. Oil Co. v. Bd. of Appeals of Milwaukee*, 21 Wis. 2d 516, 537, 124 N.W.2d 809 (1963) (allowing zoning appeal boards to deliberate in closed session after hearing, decided before the Legislature added the "case" requirement in 1977).
[226] *Hodge*, 180 Wis. 2d at 74.
[227] 68 Op. Att'y Gen. 171 (1979).
[228] Wis. Stat. §§ 59.694 (counties), 60.65(5) (towns), 62.23(7)(e)3. (cities); White Correspondence (May 1, 2009).
[229] Wis. Stat. § 70.47(2m).

If a closed session for such a purpose will include an evidentiary hearing or final action, then the governmental body must give the public employee or licensee actual notice of that closed hearing and/or closed final action. Evidentiary hearings are characterized by the formal examination of charges and by taking testimony and receiving evidence in support or defense of specific charges that may have been made.[230] Such hearings may be required by statute, ordinance or rule, by collective bargaining agreement, or by circumstances in which the employee or licensee is the subject of charges that might damage the person's good name, reputation, honor or integrity, or where the governmental body's action might impose substantial stigma or disability upon the person.[231]

Where actual notice is required, the notice must state that the person has a right to request that any such evidentiary hearing or final action be conducted in open session. If the person makes such a request, the governmental body may not conduct an evidentiary hearing or take final action in closed session. The body may, however, convene in closed session under Wis. Stat. § 19.85(1)(b) for the purpose of deliberating about the dismissal, demotion, licensing, discipline, or investigation of charges. Following such closed deliberations, the body may reconvene in open session and take final action related to the person's employment or license.[232]

Nothing in Wis. Stat. § 19.85(1) permits a person who is not a member of the governmental body to demand that the body meet in closed session. The Wisconsin Court of Appeals held that a governmental body was not required to comply with a public employee's request that the body convene in closed session to vote on the employee's dismissal.[233]

- **Consideration of Employment, Promotion, Compensation, and Performance Evaluations**

The second exemption which relates to employment matters authorizes a closed session for "[c]onsidering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility."[234]

The Attorney General's Office has interpreted this exemption to extend to public officers, such as a police chief, whom the governmental body has jurisdiction to employ.[235] The Attorney General's Office has also concluded that this exemption is sufficiently broad to authorize convening in closed session to interview and consider applicants for positions of employment.[236]

An elected official is not considered a "public employee over which the governmental body has jurisdiction or exercises responsibility."[237] Thus, Wis. Stat. § 19.85(1)(c) does not authorize a county board to convene in closed session to consider appointments of county board members to a county board committee.[238]

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[230] 66 Op. Att'y Gen. 211, 214 (1977).
[231] *Id.*
[232] *See State ex rel. Epping v. City of Neillsville Common Council*, 218 Wis. 2d 516, 581 N.W.2d 548 (Ct. App. 1998); Johnson Correspondence (Feb. 27, 2009).
[233] *Schaeve*, 125 Wis. 2d at 40.
[234] Wis. Stat. § 19.85(1)(c).
[235] Caturia Correspondence (Sept. 20, 1982).
[236] *Id.*
[237] Wis. Stat. § 19.85(1)(c).
[238] 76 Op. Att'y Gen. 276 (1987).

The language of the exemption refers to a "public employee" rather than to positions of employment in general. The apparent purpose of the exemption is to protect individual employees from having their actions and abilities discussed in public and to protect governmental bodies "from potential lawsuits resulting from open discussion of sensitive information."[239] It is not the purpose of the exemption to protect a governmental body when it discusses general policies that do not involve identifying specific employees.[240] Thus, Wis. Stat. § 19.85(1)(c) authorizes a closed session to discuss the qualifications of and salary to offer a specific applicant but does not authorize a closed session to discuss the qualifications and salary range for the position in general.[241] The section authorizes closure to determine increases in compensation for specific employees.[242] Similarly, Wis. Stat. § 19.85(1)(c) authorizes closure to determine which employees to lay off, or whether to non-renew an employee's contract at the expiration of the contract term,[243] but not to determine whether to reduce or increase staffing, in general.

- **Consideration of Financial, Medical, Social, or Personal Information**

The exemption in Wis. Stat. § 19.85(1)(f) authorizes a closed session for:

> Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

An example is where a state employee was alleged to have violated a state law.[244] This exemption is not limited to considerations involving public employees. For example, the Attorney General concluded that, in an exceptional case, a school board could convene in closed session under the exemption to interview a candidate to fill a vacancy on the school board if information is expected to damage a reputation, however, the vote should be in open session.[245]

At the same time, the Attorney General cautioned that the exemption in Wis. Stat. § 19.85(1)(f) is extremely limited. It applies only where a member of a governmental body has actual knowledge of information that will have a substantial adverse effect on the person mentioned or involved. Moreover, the exemption authorizes closure only for the duration of the discussions about the information specified in Wis. Stat. § 19.85(1)(f). Thus, the exemption would not authorize a school board to actually appoint a new member to the board in closed session.[246]

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[239] *Oshkosh Nw. Co. v. Oshkosh Library Bd.*, 125 Wis. 2d 480, 486, 373 N.W.2d 459 (Ct. App. 1985).
[240] *See* 80 Op. Att'y Gen. 176, 177–78 (1992). *See also Buswell*, 2007 WI 71, ¶ 37 (noting that Wis. Stat. § 19.85(1)(c) "provides for closed sessions for considering matters related to *individual* employees").
[241] 80 Op. Att'y Gen. 176, 178–82.
[242] 67 Op. Att'y Gen. 117, 118.
[243] *See* 66 Op. Att'y Gen. 211, 213.
[244] *See Wis. State Journal v. Univ. of Wis.-Platteville*, 160 Wis. 2d 31, 38, 465 N.W.2d 266 (Ct. App. 1990).
[245] 74 Op. Att'y Gen. 70, 72.
[246] *Id.*

- **Conducting Public Business with Competitive or Bargaining Implications**

A closed session is authorized for "[d]eliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session."[247] This exemption is not limited to deliberating or negotiating the purchase of public property or the investing of public funds. For example, the Attorney General has determined that the exemption authorized a school board to convene in closed session to develop negotiating strategies for collective bargaining.[248]

Governmental officials must keep in mind, however, that this exemption applies only when "competitive or bargaining reasons require a closed session."[249] The exemption is restrictive rather than expansive.[250] When a governmental body seeks to convene in closed session under Wis. Stat. § 19.85(1)(e), the burden is on the body to show that competitive or bargaining interests require closure.[251] An announcement of a contemplated closed session under Wis. Stat. § 19.85(1)(e) that provides only a conclusory assertion that the subject of the session will involve competitive or bargaining issues is inadequate because it does not reflect how the proposed discussion would implicate the competitive or bargaining interests of the body or the body's basis for concluding that the subject falls within the exemption.[252]

The use of the word "require" in Wis. Stat. § 19.85(1)(e) limits that exemption to situations in which competitive or bargaining reasons leave a governmental body with no option other than to close the meeting.[253] On the facts as presented in *Citizens for Responsible Development*, the court thus found that a desire or request for confidentiality by a private developer engaged in negotiations with a city was not sufficient to justify a closed session for competitive or bargaining reasons.[254] Nor did the fear that public statements might attract the attention of potential private competitors for the developer justify closure under this exemption, because the court found that such competition would be likely to benefit, rather than harm, the city's competitive or bargaining interests.[255] Similarly, holding closed meetings about ongoing negotiations between the city and private parties would not prevent those parties from seeking a better deal elsewhere. The possibility of such competition, therefore, also did not justify closure under Wis. Stat. § 19.85(1)(e).[256] The exemption did, however, allow the city to close those *portions* of its meetings that would reveal its negotiation strategy or the price it planned to offer for a purchase of property, but it could not close other parts of the meetings.[257] The competitive or bargaining interests to be protected by a closed session under Wis. Stat. § 19.85(1)(e) do not have to be shared by every member of the body or by every municipality participating in an intergovernmental body.[258]

Consistent with the above emphasis on the word "require" in Wis. Stat. § 19.85(1)(e), the Attorney General has advised that mere inconvenience, delay, embarrassment, frustration, or even speculation as to the probability of success would be an insufficient basis to close a meeting.[259] Competitive or bargaining reasons permit a closed session where the discussion will directly and substantially affect negotiations with

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[247] Wis. Stat. § 19.85(1)(e).
[248] 66 Op. Att'y Gen. 93, 96 (the opinion advised that governmental bodies that are not formed exclusively for collective bargaining comply with the open meetings law when meeting for the purpose of developing negotiating strategy).
[249] Wis. Stat. § 19.85(1)(e).
[250] *Citizens for Responsible Dev.*, 2007 WI App 114, ¶¶ 6–8.
[251] *Id.* ¶ 10.
[252] Wirth/Lamoreaux Correspondence (May 30, 2007).
[253] *Citizens for Responsible Dev.*, 2007 WI App 114, ¶ 14.
[254] *Id.* ¶¶ 13–14.
[255] *Id.* ¶ 14 n.6.
[256] *Id.* ¶¶ 15–16.
[257] *Id.* ¶ 19.
[258] *State ex rel. Herro v. Vill. of McFarland*, 2007 WI App 172, ¶¶ 16–19, 303 Wis. 2d 749, 737 N.W.2d 55.
[259] Gempeler Correspondence (Feb. 12, 1979).

a third party, but not where the discussions might be one of several factors that indirectly influence the outcome of those negotiations.[260] The meetings of a governmental body also may not be closed in a blanket manner merely because they may at times involve competitive or bargaining issues, but rather may only be closed on those occasions when the particular meeting is going to involve discussion which, if held in open session, would harm the competitive or bargaining interests at issue.[261] Once a governmental body's bargaining team has reached a tentative agreement, the discussion whether the body should ratify the agreement should be conducted in open session.[262]

- **Conferring with Legal Counsel with Respect to Litigation**

  The exemption in Wis. Stat. § 19.85(1)(g) authorizes a closed session for "[c]onferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved."

  The presence of the governmental body's legal counsel is not, in itself, sufficient reason to authorize closure under this exemption. The exemption applies only if the legal counsel is rendering advice on strategy to adopt for litigation in which the governmental body is or is likely to become involved.

  There is no clear-cut standard for determining whether a governmental body is "likely" to become involved in litigation. Members of a governmental body should rely on the body's legal counsel for advice on whether litigation is sufficiently "likely" to authorize a closed session under Wis. Stat. § 19.85(1)(g).

- **Remaining Exemptions**

  The remaining exemptions in Wis. Stat. § 19.85(1) authorize closure for:

  1. Considering applications for probation or parole, or considering strategy for crime detection or prevention.[263]

  2. Specified deliberations by the state council on unemployment insurance and the state council on worker's compensation.[264]

  3. Specified deliberations involving the location of a burial site.[265]

  4. Consideration of requests for confidential written advice from the government accountability board or from any county or municipal ethics board.[266]

Who May Attend a Closed Session

A frequently asked question concerns who may attend the closed session meetings of a governmental body. In general, the open meetings law gives wide discretion to a governmental body to admit into a closed session anyone whose presence the body determines is necessary for the consideration of the matter that is the subject of the

[260] Henderson Correspondence (Mar. 24, 1992).
[261] I-04-09 (Sept. 28, 2009).
[262] 81 Op. Att'y Gen. 139, 141 (1994).
[263] Wis. Stat. § 19.85(1)(d).
[264] Wis. Stat. § 19.85(1)(ee), (eg).
[265] Wis. Stat. § 19.85(1)(em).
[266] Wis. Stat. § 19.85(1)(h).

meeting.[267] If the governmental body is a subunit of a parent body, the subunit must allow members of the parent body to attend its open session and closed session meetings, unless the rules of the parent body or subunit provide otherwise.[268] Where enough non-members of a subunit attend the subunit's meetings that a quorum of the parent body is present, a meeting of the parent body occurs, and the notice requirements of Wis. Stat. § 19.84 apply.[269]

Voting in an Authorized Closed Session

The Wisconsin Supreme Court has held that Wis. Stat. § 14.90 (1959), a predecessor to the current open meetings law, authorized a governmental body to vote in closed session on matters that were the legitimate subject of deliberation in closed session.[270] The court reasoned that "voting is an integral part of deliberating and merely formalizes the result reached in the deliberating process."[271]

In *Schaeve*,[272] the Wisconsin Court of Appeals commented on the propriety of voting in closed session under the current open meetings law. The court indicated that a governmental body must vote in open session unless an exemption in Wis. Stat. § 19.85(1) expressly authorizes voting in closed session.[273] The court's statement was not essential to its holding and it is unclear whether the supreme court would adopt a similar interpretation of the current open meetings law.

Given this uncertainty, the Attorney General advises that a governmental body vote in open session, unless the vote is clearly an integral part of deliberations authorized to be conducted in closed session under Wis. Stat. § 19.85(1). Stated another way, a governmental body should vote in open session, unless doing so would compromise the need for the closed session.[274]

None of the exemptions in Wis. Stat. § 19.85(1) authorize a governmental body to consider in closed session the ratification or final approval of a collective bargaining agreement negotiated by or for the body.[275]

Reconvening in Open Session

A governmental body may not commence a meeting, convene in closed session, and subsequently reconvene in open session within 12 hours after completion of a closed session, unless public notice of the subsequent open session is given "at the same time and in the same manner" as the public notice of the prior open session.[276] The notice need not specify the time the governmental body expects to reconvene in open session if the body plans to reconvene immediately following the closed session. If the notice does specify the time, the body must wait until that time to reconvene in open session. When a governmental body reconvenes in open session following a closed session, the presiding officer has a duty to open the door of the meeting room and inform any members of the public present that the session is open.[277]

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[267] Schuh Correspondence (Dec. 15, 1988).
[268] Wis. Stat. § 19.89.
[269] *Badke*, 173 Wis. 2d at 579.
[270] *Cities Serv. Oil Co.*, 21 Wis. 2d at 538.
[271] *Id.* at 539.
[272] *Schaeve*, 125 Wis. 2d at 53.
[273] *Schaeve*, 125 Wis. 2d at 53.
[274] *Accord Epping*, 218 Wis. 2d at 524 n.4 (even if deliberations were conducted in an unlawful closed session, a subsequent vote taken in open session could not be voided).
[275] Wis. Stat. § 19.85(3); 81 Op. Att'y Gen. 139.
[276] Wis. Stat. § 19.85(2).
[277] Claybaugh Correspondence (Feb. 16, 2006).

WHO ENFORCES THE OPEN MEETINGS LAW AND WHAT ARE ITS PENALTIES?

Enforcement

Both the Attorney General and the district attorneys have authority to enforce the open meetings law.[278] In most cases, enforcement at the local level has the greatest chance of success due to the need for intensive factual investigation, the district attorneys' familiarity with the local rules of procedure, and the need to assemble witnesses and material evidence.[279] Under certain circumstances, the Attorney General may elect to prosecute complaints involving a matter of statewide concern.

A district attorney has authority to enforce the open meetings law only after an individual files a verified open meetings law complaint with the district attorney.[280] Actions to enforce the open meetings law are exempt from the notice of claim requirements of Wis. Stat. § 893.80.[281] The verified complaint must be signed by the individual and notarized and should include available information that will be helpful to investigators, such as: identifying the governmental body and any members thereof alleged to have violated the law; describing the factual circumstances of the alleged violations; identifying witnesses with relevant evidence; and identifying any relevant documentary evidence. The district attorney has broad discretion to determine whether a verified complaint should be prosecuted.[282] An enforcement action brought by a district attorney or by the Attorney General must be commenced within two years after the cause of action accrues or be barred.[283]

Proceedings to enforce the open meetings law are civil actions subject to the rules of civil procedure, rather than criminal procedure, and governed by the ordinary civil standard of proof, rather than a heightened standard of proof such as would apply in a criminal or quasi-criminal proceeding. Accordingly, enforcement of the open meetings law does not involve such practices as arrest, posting bond, entering criminal-type pleas, or any other aspects of criminal procedure. Rather, an open meetings law enforcement action is commenced like any civil action by filing and serving a summons and complaint. In addition, the open meetings law cannot be enforced by the issuance of a citation, in the way that other civil forfeitures are often enforced, because citation procedures are inconsistent with the statutorily-mandated verified complaint procedure.[284]

If the district attorney refuses to commence an open meetings law enforcement action or otherwise fails to act within 20 days of receiving a complaint, the individual who filed the complaint has a right to bring an action, in the name of the state, to enforce the open meetings law.[285] Although an individual may not bring a private enforcement action prior to the expiration of the district attorney's twenty-day review period, the district attorney may still commence an action even though more than 20 days have passed. It is not uncommon for the review and investigation of open meetings complaints to take longer than 20 days.

Court proceedings brought by private relators to enforce the open meetings law must be commenced within two years after the cause of action accrues, or the proceedings will be barred.[286] If a private relator brings an enforcement action and prevails, the court is authorized to grant broad relief, including a declaration that the law was violated,

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[278] Wis. Stat. § 19.97(1).
[279] 65 Op. Att'y Gen. Preface, ii.
[280] *See* Wis. Stat. § 19.97(1).
[281] *E-Z Roll Off, LLC v. Cty. of Oneida*, 2011 WI 71, ¶ 21, 335 Wis. 2d 720, 800 N.W.2d 421 (citing *State ex rel. Auchinleck v. Town of LaGrange*, 200 Wis. 2d 585, 597, 547 N.W.2d 587 (1996)).
[282] *State v. Karpinski*, 92 Wis. 2d 599, 607, 285 N.W.2d 729 (1979).
[283] *See* Wis. Stat. § 893.93(2)(a).
[284] Zwieg Correspondence (Mar. 10, 2005).
[285] *Lawton*, 2005 WI App 16, ¶ 15; Wis. Stat. § 19.97(4); *see also Fabyan v. Achtenhagen*, 2002 WI App 214, ¶¶ 10-13, 257 Wis. 2d 310, 652 N.W.2d 649 (complaint under Wis. Stat. § 19.97 must be brought in the name of and on behalf of the state; *i.e.*, the caption must bear the title "State ex rel." or the court lacks competency to proceed).
[286] Wis. Stat. § 893.93(2)(a); *State ex rel. Leung v. City of Lake Geneva*, 2003 WI App 129, ¶ 6, 265 Wis. 2d 674, 666 N.W.2d 104.

civil forfeitures where appropriate, and the award of the actual and necessary costs of prosecution, including reasonable attorney fees.[287] Attorney fees will be awarded under this provision where such an award will provide an incentive to other private parties to similarly vindicate the public's rights to open government and will deter governmental bodies from skirting the open meetings law.[288]

Relief for alleged violations of the open meetings law cannot be sought under the public records law. In *Journal Times*,[289] the plaintiff newspaper brought a mandamus action under Wis. Stat. § 19.37(2)(a), claiming, in part, that the defendant commission, by not contemporaneously creating a record of a motion at a closed-session meeting, had violated the requirement in Wis. Stat. § 19.88(3) of the open meetings law that all motions and roll call votes must be recorded, preserved, and open to public inspection to the extent required by the public records law. The court held, in part, that the newspaper could not seek relief under the public records law for the alleged violation of the open meetings law.[290]

Penalties

Any member of a governmental body who "knowingly" attends a meeting held in violation of the open meetings law, or otherwise violates the law, is subject to a forfeiture of between $25 and $300 for each violation.[291] Any forfeiture obtained in an action brought by the district attorney is awarded to the county.[292] Any forfeiture obtained in an action brought by the Attorney General or a private citizen is awarded to the state.[293]

The Wisconsin Supreme Court has defined "knowingly" as not only positive knowledge of the illegality of a meeting, but also awareness of the high probability of the meeting's illegality or conscious avoidance of awareness of the illegality.[294] The court also held that knowledge is not required to impose forfeitures on an individual for violating the open meetings law by means other than attending a meeting held in violation of the law. Examples of "other violations" are failing to give the required public notice of a meeting or failing to follow the procedure for closing a session.[295]

A member of a governmental body who is charged with knowingly attending a meeting held in violation of the law may raise one of two defenses: (1) that the member made or voted in favor of a motion to prevent the violation or (2) that the member's votes on all relevant motions prior to the violation were inconsistent with the cause of the violation.[296]

A member who is charged with a violation other than knowingly attending a meeting held in violation of the law may be permitted to raise the additional statutory defense that the member did not act in his or her official capacity. In addition, in *Swanson*,[297] and *Hodge*,[298] the Wisconsin Supreme Court intimated that a member of a governmental body can avoid liability if he or she can factually prove that he or she relied, in good faith and in an open and

[287] Wis. Stat. § 19.97(4).
[288] *Buswell*, 2007 WI 71, ¶ 54.
[289] *Journal Times*, 2015 WI 56.
[290] *Id.* ¶ 51.
[291] Wis. Stat. § 19.96.
[292] Wis. Stat. § 19.97(1).
[293] Wis. Stat. § 19.97(1), (2), (4).
[294] *Swanson*, 92 Wis. 2d at 319.
[295] *Id.* at 321.
[296] Wis. Stat. § 19.96.
[297] *Swanson*, 92 Wis. 2d at 319.
[298] *Hodge*, 180 Wis. 2d at 80.

unconcealed manner, on the advice of counsel whose statutory duties include the rendering of legal opinions as to the actions of the body.[299]

A governmental body may not reimburse a member for a forfeiture incurred as a result of a violation of the law, unless the enforcement action involved a real issue as to the constitutionality of the open meetings law.[300] Although it is not required to do so, a governmental body may reimburse a member for his or her reasonable attorney fees in defending against an enforcement action and for any plaintiff's attorney fees that the member is ordered to pay. The city attorney may represent city officials in open meetings law enforcement actions.[301]

In addition to the forfeiture penalty, Wis. Stat. § 19.97(3) provides that a court may void any action taken at a meeting held in violation of the open meetings law if the court finds that the interest in enforcing the law outweighs any interest in maintaining the validity of the action. Thus, in *Hodge*,[302] the court voided the town board's denial of a permit, taken after an unauthorized closed session deliberation about whether to grant or deny the permit.[303] A court may award any other appropriate legal or equitable relief, including declaratory and injunctive relief.[304]

In enforcement actions seeking forfeitures, the provisions of the open meetings law must be narrowly construed due to the penal nature of forfeiture. In all other actions, the provisions of the law must be liberally construed to ensure the public's right to "the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."[305] Thus, it is advisable to prosecute forfeiture actions separately from actions seeking other types of relief under the open meetings law.

Interpretation by Attorney General

In addition to the methods of enforcement discussed above, the Attorney General also has express statutory authority to respond to requests for advice from any person as to the applicability of the open meetings and public records laws.[306] This differs from other areas of law, in which the Attorney General is only authorized to give legal opinions or advice to specified governmental officials and agencies. Because the Legislature has expressly authorized the Attorney General to interpret the open meetings law, the Wisconsin Supreme Court has acknowledged that the Attorney General's opinions in this area should be given substantial weight.[307]

Citizens with questions about matters outside the scope of the open meetings and public records laws should seek assistance from a private attorney. Citizens and public officials with questions about the open meetings law or the public records law are advised to first consult the applicable statutes, the corresponding discussions in this compliance guide and in DOJ's Public Records Law Compliance Guide, court decisions, and prior Attorney General

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[299] *See State v. Tereschko*, No. 00-3290, 2001 WL 537491, ¶¶ 9–10 (Wis. Ct. App. May 22, 2001) (unpublished) (declining to find a knowing violation where school board members relied on the advice of counsel in going into closed session); *State v. Davis*, 63 Wis. 2d 75, 82, 216 N.W.2d 31 (1974) (interpreting Wis. Stat. § 946.13(1) (private interest in public contract)); *cf. Journal/Sentinel, Inc. v. Shorewood Sch. Bd.*, 186 Wis. 2d 443, 452–55, 521 N.W.2d 165 (Ct. App. 1994) (school board may not avoid duty to provide public records by delegating the creation and custody of the record to its attorneys).

[300] 66 Op. Att'y Gen. 226 (1977).

[301] 77 Op. Att'y Gen. 177, 180 (1988).

[302] *Hodge*, 180 Wis. 2d at 75–76.

[303] *Cf. State ex rel. Ozanne v. Fitzgerald*, 2011 WI 43, ¶ 13, 334 Wis. 2d 70, 798 N.W.2d 436 (supreme court did not void a statute adopted by the legislature because a legislative committee did not comply with notice requirements of the open meetings law); *Epping*, 218 Wis. 2d at 524 n.4 (arguably unlawful closed session deliberation does not provide basis for voiding subsequent open session vote); *State ex rel. Ward v. Town of Nashville*, No. 00-0973, 2001 WL 881704, ¶ 30 (Wis. Ct. App. Aug. 7, 2001) (unpublished) (declining to void an agreement made in open session, where the agreement was the product of three years of unlawfully closed meetings).

[304] Wis. Stat. § 19.97(2).

[305] Wis. Stat. § 19.81(1), (4).

[306] Wis. Stat. §§ 19.39, 19.98.

[307] *BDADC*, 2008 WI 90, ¶¶ 37, 44–45. *See also Krueger*, 2017 WI 70, ¶ 39 (adopting the Attorney General's opinion that, under open meetings law, a committee is created whenever a government body, by rule, "authorizes the committee and assigns the duties and functions of the committee" (quoting 78 Op. Att'y Gen. 67, 69)) .

opinions and to confer with their own private or governmental attorneys. In the rare instances where a question cannot be resolved in this manner, a written request for advice may be made to DOJ. In submitting such requests, it should be remembered that DOJ cannot conduct factual investigations, resolve disputed issues of fact, or make definitive determinations on fact-specific issues. Any response will thus be based solely on the information provided.

Appendix A

Open Meetings Law

Wis. Stat. §§ 19.81–19.98

(3) "Matching program" means the computerized comparison of information in one records series to information in another records series for use by an authority or a federal agency to establish or verify an individual's eligibility for any right, privilege or benefit or to recoup payments or delinquent debts under programs of an authority or federal agency.

(5) "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

(6) "Record" has the meaning specified in s. 19.32 (2).

(7) "Records series" means records that are arranged under a manual or automated filing system, or are kept together as a unit, because they relate to a particular subject, result from the same activity or have a particular form.

(8) "State authority" means an authority that is a state elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, rule or order; a state governmental or quasi−governmental corporation; the supreme court or court of appeals; or the assembly or senate.

History: 1991 a. 39; 1993 a. 215; 1995 a. 27; 1997 a. 79; 2001 a. 16; 2007 a. 20.

19.65 Rules of conduct; employee training; and security. An authority shall do all of the following:

(1) Develop rules of conduct for its employees who are involved in collecting, maintaining, using, providing access to, sharing or archiving personally identifiable information.

(2) Ensure that the persons identified in sub. (1) know their duties and responsibilities relating to protecting personal privacy, including applicable state and federal laws.

History: 1991 a. 39.

19.67 Data collection. (1) COLLECTION FROM DATA SUBJECT OR VERIFICATION. An authority that maintains personally identifiable information that may result in an adverse determination about any individual's rights, benefits or privileges shall, to the greatest extent practicable, do at least one of the following:

(a) Collect the information directly from the individual.

(b) Verify the information, if collected from another person.

History: 1991 a. 39.

19.68 Collection of personally identifiable information from Internet users. No state authority that maintains an Internet site may use that site to obtain personally identifiable information from any person who visits that site without the consent of the person from whom the information is obtained. This section does not apply to acquisition of Internet protocol addresses.

History: 2001 a. 16.

19.69 Computer matching. (1) MATCHING SPECIFICATION. A state authority may not use or allow the use of personally identifiable information maintained by the state authority in a match under a matching program, or provide personally identifiable information for use in a match under a matching program, unless the state authority has specified in writing all of the following for the matching program:

(a) The purpose and legal authority for the matching program.

(b) The justification for the program and the anticipated results, including an estimate of any savings.

(c) A description of the information that will be matched.

(2) COPY TO PUBLIC RECORDS BOARD. A state authority that prepares a written specification of a matching program under sub. (1) shall provide to the public records board a copy of the specification and any subsequent revision of the specification within 30 days after the state authority prepares the specification or the revision.

(3) NOTICE OF ADVERSE ACTION. (a) Except as provided under par. (b), a state authority may not take an adverse action against an individual as a result of information produced by a matching program until after the state authority has notified the individual, in writing, of the proposed action.

(b) A state authority may grant an exception to par. (a) if it finds that the information in the records series is sufficiently reliable.

(4) NONAPPLICABILITY. This section does not apply to any matching program established between the secretary of transportation and the commissioner of the federal social security administration pursuant to an agreement specified under s. 85.61 (2).

History: 1991 a. 39, 269; 1995 a. 27; 2003 a. 265.

19.70 Rights of data subject to challenge; authority corrections. (1) Except as provided under sub. (2), an individual or person authorized by the individual may challenge the accuracy of a record containing personally identifiable information pertaining to the individual that is maintained by an authority if the individual is authorized to inspect the record under s. 19.35 (1) (a) or (am) and the individual notifies the authority, in writing, of the challenge. After receiving the notice, the authority shall do one of the following:

(a) Concur with the challenge and correct the information.

(b) Deny the challenge, notify the individual or person authorized by the individual of the denial and allow the individual or person authorized by the individual to file a concise statement setting forth the reasons for the individual's disagreement with the disputed portion of the record. A state authority that denies a challenge shall also notify the individual or person authorized by the individual of the reasons for the denial.

(2) This section does not apply to any of the following records:

(a) Any record transferred to an archival depository under s. 16.61 (13).

(b) Any record pertaining to an individual if a specific state statute or federal law governs challenges to the accuracy of the record.

History: 1991 a. 269 ss. 27d, 27e, 35am, 37am, 39am; 2013 a. 171 s. 16; Stats. 2013 s. 19.70.

19.71 Sale of names or addresses. An authority may not sell or rent a record containing an individual's name or address of residence, unless specifically authorized by state law. The collection of fees under s. 19.35 (3) is not a sale or rental under this section.

History: 1991 a. 39.

19.77 Summary of case law and attorney general opinions. Annually, the attorney general shall summarize case law and attorney general opinions relating to due process and other legal issues involving the collection, maintenance, use, provision of access to, sharing or archiving of personally identifiable information by authorities. The attorney general shall provide the summary, at no charge, to interested persons.

History: 1991 a. 39.

19.80 Penalties. (2) EMPLOYEE DISCIPLINE. Any person employed by an authority who violates this subchapter may be discharged or suspended without pay.

(3) PENALTIES. (a) Any person who willfully collects, discloses or maintains personally identifiable information in violation of federal or state law may be required to forfeit not more than $500 for each violation.

(b) Any person who willfully requests or obtains personally identifiable information from an authority under false pretenses may be required to forfeit not more than $500 for each violation.

History: 1991 a. 39, 269.

SUBCHAPTER V

OPEN MEETINGS OF GOVERNMENTAL BODIES

19.81 Declaration of policy. (1) In recognition of the fact that a representative government of the American type is depen-

dent upon an informed electorate, it is declared to be the policy of this state that the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.

(2) To implement and ensure the public policy herein expressed, all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.

(3) In conformance with article IV, section 10, of the constitution, which states that the doors of each house shall remain open, except when the public welfare requires secrecy, it is declared to be the intent of the legislature to comply to the fullest extent with this subchapter.

(4) This subchapter shall be liberally construed to achieve the purposes set forth in this section, and the rule that penal statutes must be strictly construed shall be limited to the enforcement of forfeitures and shall not otherwise apply to actions brought under this subchapter or to interpretations thereof.

History: 1975 c. 426; 1983 a. 192.

NOTE: The following annotations relate to s. 66.77, repealed by Chapter 426, laws of 1975.

Subsequent to the presentation of evidence by the taxpayer, a board of review's consideration of testimony by the village assessor at an executive session was contrary to the open meeting law. Although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi−judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the quasi−judicial hearing without the presence of or notice to the objecting taxpayer. Dolphin v. Butler Board of Review, 70 Wis. 2d 403, 234 N.W.2d 277 (1975).

The open meeting law is not applicable to the judicial commission. State ex rel. Lynch v. Dancey, 71 Wis. 2d 287, 238 N.W.2d 81 (1976).

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting when there was no prior open meeting on that day. 58 Atty. Gen. 41.

Consideration of a resolution is a formal action of an administrative or minor governing body and when taken in proper closed session, the resolution and result of the vote must be made available for public inspection, pursuant to s. 19.21, absent a specific showing that the public interest would be adversely affected. 60 Atty. Gen. 9.

Joint apprenticeship committees, appointed pursuant to Wis. Adm. Code provisions, are governmental bodies and subject to the requirements of the open meeting law. 63 Atty. Gen. 363.

Voting procedures employed by worker's compensation and unemployment advisory councils that utilized adjournment of public meeting for purposes of having members representing employers and members representing employees or workers to separately meet in closed caucuses and to vote as a block on reconvening was contrary to the open records law. 63 Atty. Gen. 414.

A governmental body can call closed sessions for proper purposes without giving notice to members of the news media who have filed written requests. 63 Atty. Gen. 470.

The meaning of "communication" is discussed with reference to giving the public and news media members adequate notice. 63 Atty. Gen. 509.

The posting in the governor's office of agenda of future investment board meetings is not sufficient communication to the public or the news media who have filed a written request for notice. 63 Atty. Gen. 549.

A county board may not utilize an unidentified paper ballot in voting to appoint a county highway commissioner, but may vote by ayes and nays or show of hands at an open session if some member does not require the vote to be taken in such manner that the vote of each member may be ascertained and recorded. 63 Atty. Gen. 569.

NOTE: The following annotations refer to ss. 19.81 to 19.98.

When the city of Milwaukee and a private non−profit festival organization incorporated the open meetings law into a contract, the contract allowed public enforcement of the contractual provisions concerning open meetings. Journal/Sentinel, Inc. v. Pleva, 155 Wis. 2d 704, 456 N.W.2d 359 (1990).

Sub. (2) requires that a meeting be held in a facility that gives reasonable public access, not total access. No person may be systematically excluded or arbitrarily refused admittance. State ex rel. Badke v. Greendale Village Bd. 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

This subchapter is discussed. 65 Atty. Gen. preface.

Public notice requirements for meetings of a city district school board under this subchapter and s. 120.48, 1983 stats., are discussed. 66 Atty. Gen. 93.

A volunteer fire department organized as a nonprofit corporation under s. 213.05 is not subject to the open meeting law. 66 Atty. Gen. 113.

Anyone has the right to tape−record an open meeting of a governmental body provided the meeting is not thereby physically disrupted. 66 Atty. Gen. 318.

The open meeting law does not apply to a coroner's inquest. 67 Atty. Gen. 250.

The open meeting law does not apply if the common council hears a grievance under a collective bargaining agreement. 67 Atty. Gen. 276.

The application of the open meeting law to the duties of WERC is discussed. 68 Atty. Gen. 171.

A senate committee meeting was probably held in violation of the open meetings law although there was never any intention prior to the gathering to attempt to debate any matter of policy, to reach agreement on differences, to make any decisions on any bill or part thereof, to take any votes, or to resolve substantive differences. Quorum gatherings should be presumed to be in violation of the law, due to a quorum's ability to thereafter call, compose and control by vote a formal meeting of a governmental body. 71 Atty. Gen. 63.

Nonstock corporations created by statute as bodies politic clearly fall within the term "governmental body" as defined in the open meetings law and are subject to the provisions of the open meetings law. Nonstock corporations that were not created by the legislature or by rule, but were created by private citizens are not bodies politic and not governmental bodies. 73 Atty. Gen. 53.

Understanding Wisconsin's open meeting law. Harvey, WBB September 1980.

Getting the Best of Both Worlds: Open Government and Economic Development. Westerberg. Wis. Law. Feb. 2009.

An Intro to Understanding Wisconsin's Open Meetings Law. Block. Wis. Law. Dec. 2015.

19.82 Definitions.

As used in this subchapter:

(1) "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi−governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long−term care district under s. 46.2895; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV, or V of ch. 111.

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one−half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (k), or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a).

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof which enables access by persons with functional limitations, as defined in s. 101.13 (1).

History: 1975 c. 426; 1977 c. 364, 447; 1985 a. 26, 29, 332; 1987 a. 305; 1993 a. 215, 263, 456, 491; 1995 a. 27, 185; 1997 a. 79; 1999 a. 9; 2007 a. 20, 96; 2009 a. 28; 2011 a. 10.

A "meeting" under sub. (2) was found although the governmental body was not empowered to exercise the final powers of its parent body. State v. Swanson, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

A "meeting" under sub. (2) was found when members met with a purpose to engage in government business and the number of members present was sufficient to determine the parent body's course of action regarding the proposal discussed. State ex rel. Newspapers v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

The open meetings law is not meant to apply to single−member governmental bodies. Sub. (2) speaks of a meeting of the members, plural, implying there must be at least two members of a governmental body. Plourde v. Berends, 2006 WI App 147, 294 Wis. 2d 746, 720 N.W.2d 130, 05−2106.

When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second body, the gathering is a "meeting," unless the gathering is social or by chance. State ex rel. Badke v. Greendale Village Board, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

A corporation is quasi−governmental if, based on the totality of circumstances, it resembles a governmental corporation in function, effect, or status, requiring a case−by−case analysis. Here, a primary consideration was that the body was funded exclusively by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city Web site, the city provided it with clerical support and office supplies, all its assets revert to the city if it ceases to exist, its books are open for city inspection, the mayor and another city official are directors, and it had no clients other than the city. State v. Beaver Dam Area Development Corporation, 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295, 06−0662.

A particular group of members of the government compose a governmental body if there is a constitution, statute, ordinance, rule, or order conferring collective power and defining when it exists. To cause a body to exist, the relevant directive must confer upon it the collective responsibilities, authority, power, or duties necessary to a governmental body's existence under the open meetings law. The creation of a governmental body is not triggered merely by any deliberate meetings involving governmental business between 2 or more officials. Loosely organized, ad hoc gatherings of government employees, without more, do not constitute governmental bodies. Rather, an entity must exist that has the power to take collective action that the members could not take individually. Krueger v. Appleton Area School District Board of Education, 2017 WI 70, 376 Wis. 2d 239, 898 N.W.2d 35, 15−0231.

When a governmental entity adopts a rule authorizing the formation of committees and conferring on them the power to take collective action, such committees are created by rule under sub. (1) and the open meetings law applies to them. Here, a school board provided that the review of educational materials should be done according to the board−approved handbook. The handbook, in turn, authorized the formation of committees with a defined membership and the power to review educational materials and make formal recommendations for board approval. Because the committee in question was formed as one of these committees, pursuant to the authority delegated from the board by rule and the handbook, it was created by rule and therefore was a "governmental body" under sub. (1). Krueger v. Appleton Area School District Board of Education, 2017 WI 70, 376 Wis. 2d 239, 898 N.W.2d 35, 15−0231.

Under *Showers*, 135 Wis. 2d 77, the open meetings law may apply to a walking quorum. A walking quorum is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum. To establish a walking quorum, a plaintiff must prove that members of a governmental body purposefully engaged in discussions of governmental business and that the discussions were held between a sufficient number of members so as to affect the vote. Zecchino v. Dane County, 2018 WI App 19, 380 Wis. 2d 453, 909 N.W.2d 203, 17−0002.

A municipal public utility commission managing a city owned public electric utility is a governmental body under sub. (1). 65 Atty. Gen. 243.

A "private conference" under s. 118.22 (3), on nonrenewal of a teacher's contract is a "meeting" within s. 19.82 (2). 66 Atty. Gen. 211.

A private home may qualify as a meeting place under sub. (3). 67 Atty. Gen. 125.

A telephone conference call involving members of governmental body is a "meeting" that must be reasonably accessible to the public and public notice must be given. 69 Atty. Gen. 143.

A "quasi−governmental corporation" in sub. (1) includes private corporations that closely resemble governmental corporations in function, effect, or status. 80 Atty. Gen. 129.

Election canvassing boards operating under ss. 7.51, 7.53, and 7.60 are governmental bodies subject to the open meetings law — including the public notice, open session, and reasonable public access requirements — when they convene for the purpose of carrying out their statutory canvassing activities, but not when they are gathered only as individual inspectors fulfilling administrative duties. OAG 5−14.

19.83 Meetings of governmental bodies. (1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) During a period of public comment under s. 19.84 (2), a governmental body may discuss any matter raised by the public.

History: 1975 c. 426; 1997 a. 123.

When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second body, the gathering is a "meeting," unless the gathering is social or by chance. State ex rel. Badke v. Greendale Village Board, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

19.84 Public notice. (1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any University of Wisconsin System institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1997 a. 123; 2007 a. 20.

There is no requirement in this section that the notice provided be exactly correct in every detail. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01−0201.

Sub. (2) does not expressly require that the notice indicate whether a meeting will be purely deliberative or if action will be taken. The notice must alert the public of the importance of the meeting. Although a failure to expressly state whether action will be taken could be a violation, the importance of knowing whether a vote would be taken is diminished when no input from the audience is allowed or required. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01−0201.

Sub. (2) sets forth a reasonableness standard for determining whether notice of a meeting is sufficient that strikes the proper balance between the public's right to information and the government's need to efficiently conduct its business. The standard requires taking into account the circumstances of the case, which includes analyzing such factors as the burden of providing more detailed notice, whether the subject is of particular public interest, and whether it involves non−routine action that the public would be unlikely to anticipate. Buswell v. Tomah Area School District, 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804, 05−2998.

The supreme court declined to review the validity of the procedure used to give notice of a joint legislative committee on conference alleged to violate the sub. (3) 24−hour notice requirement. The court will not determine whether internal operating rules or procedural statutes have been complied with by the legislature in the course of its enactments and will not intermeddle in what it views, in the absence of constitutional directives to the contrary, to be purely legislative concerns. Ozanne v. Fitzgerald, 2011 WI 43, 334 Wis. 2d 70, 798 N.W.2d 436, 11−0613.

Under sub. (1) (b), a written request for notice of meetings of a governmental body should be filed with the chief presiding officer or designee and a separate written request should be filed with each specific governmental body. 65 Atty. Gen. 166.

The method of giving notice pursuant to sub. (1) is discussed. 65 Atty. Gen. 250.

The specificity of notice required by a governmental body is discussed. 66 Atty. Gen. 143, 195.

The requirements of notice given to newspapers under this section is discussed. 66 Atty. Gen. 230.

A town board, but not an annual town meeting, is a "governmental body" within the meaning of the open meetings law. 66 Atty. Gen. 237.

News media who have filed written requests for notices of public meetings cannot be charged fees by governmental bodies for communication of the notices. 77 Atty. Gen. 312.

A newspaper is not obligated to print a notice received under sub. (1) (b), nor is governmental body obligated to pay for publication. Martin v. Wray, 473 F. Supp. 1131 (1979).

19.85 Exemptions. (1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating concerning a case which was the subject of any judicial or quasi−judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employee or person licensed is

given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employee or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(d) Except as provided in s. 304.06 (1) (eg) and by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation, extended supervision or parole, or considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(ee) Deliberating by the council on unemployment insurance in a meeting at which all employer members of the council or all employee members of the council are excluded.

(eg) Deliberating by the council on worker's compensation in a meeting at which all employer members of the council or all employee members of the council are excluded.

(em) Deliberating under s. 157.70 if the location of a burial site, as defined in s. 157.70 (1) (b), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. I, IV, or V of ch. 111 which has been negotiated by such body or on its behalf.

History: 1975 c. 426; 1977 c. 260; 1983 a. 84; 1985 a. 316; 1987 a. 38, 305; 1989 a. 64; 1991 a. 39; 1993 a. 97, 215; 1995 a. 27; 1997 a. 39, 237, 283; 1999 a. 32; 2007 a. 1, 20; 2009 a. 28; 2011 a. 10, 32; 2015 a. 118.

Although a meeting was properly closed, in order to refuse inspection of records of the meeting, the custodian was required by s. 19.35 (1) (a) to state specific and sufficient public policy reasons why the public interest in nondisclosure outweighed the public's right of inspection. Oshkosh Northwestern Co. v. Oshkosh Library Board, 125 Wis. 2d 480, 373 N.W.2d 459 (Ct. App. 1985).

The balance between protection of reputation under sub. (1) (f) and the public interest in openness is discussed. Wis. State Journal v. UW−Platteville, 160 Wis. 2d 31, 465 N.W.2d 266 (Ct. App. 1990). See also Pangman v. Stigler, 161 Wis. 2d 828, 468 N.W.2d 784 (Ct. App. 1991).

A "case" under sub. (1) (a) contemplates an adversarial proceeding. It does not connote the mere application for and granting of a permit. Hodge v. Turtle Lake, 180 Wis. 2d 62, 508 N.W.2d 603 (1993).

A closed session to discuss an employee's dismissal was properly held under sub. (1) (b) and did not require notice to the employee under sub. (1) (b) when no evidentiary hearing or final action took place in the closed session. State ex rel. Epping v. City of Neillsville, 218 Wis. 2d 516, 581 N.W.2d 548 (Ct. App. 1998), 97−0403.

The exception under sub. (1) (e) must be strictly construed. A private entity's desire for confidentiality does not permit a closed meeting. A governing body's belief that secret meetings will produce cost savings does not justify closing the door to public scrutiny. Providing contingencies allowing for future public input was insufficient. Because legitimate concerns were present for portions of some of the meetings does not mean the entirety of the meetings fell within the narrow exception under sub. (1) (e). Citizens for Responsible Development v. City of Milton, 2007 WI App 114, 300 Wis. 2d 649, 731 N.W.2d 640, 06−0427.

Section 19.35 (1) (a) does not mandate that, when a meeting is closed under this section, all records created for or presented at the meeting are exempt from disclosure. The court must still apply the balancing test articulated in *Linzmeyer,* 2002 WI 84, 254 Wis. 2d 306. Zellner v. Cedarburg School District, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06−1143.

Nothing in sub. (1) (e) suggests that a reason for going into closed session must be shared by each municipality participating in an intergovernmental body. It is not inconsistent with the open meetings law for a body to move into closed session under sub. (1) (e) when the bargaining position to be protected is not shared by every member of the body. Once a vote passes to go into closed session, the reason for requesting the vote becomes the reason of the entire body. Herro v. Village of McFarland, 2007 WI App 172, 303 Wis. 2d 749, 737 N.W.2d 55, 06−1929.

In allowing governmental bodies to conduct closed sessions in limited circumstances, this section does not create a blanket privilege shielding closed session contents from discovery. There is no implicit or explicit confidentiality mandate. A closed meeting is not synonymous with a meeting that, by definition, entails a privilege exempting its contents from discovery. Sands v. The Whitnall School District, 2008 WI 89, 312 Wis. 2d 1, 754 N.W.2d 439, 05−1026.

Boards of review cannot rely on the exemptions in sub. (1) to close any meeting in view of the explicit requirements in s. 70.47 (2m). 65 Atty. Gen. 162.

A university subunit may discuss promotions not relating to tenure, merit increases, and property purchase recommendations in closed session. 66 Atty. Gen. 60.

Neither sub. (1) (c) nor (f) authorizes a school board to make actual appointments of a new member in closed session. 74 Atty. Gen. 70.

A county board chairperson and committee are not authorized by sub. (1) (c) to meet in closed session to discuss appointments to county board committees. In appropriate circumstances, sub. (1) (f) would authorize closed sessions. 76 Atty. Gen. 276.

Sub. (1) (c) does not permit closed sessions to consider employment, compensation, promotion, or performance evaluation policies to be applied to a position of employment in general. 80 Atty. Gen. 176.

A governmental body may convene in closed session to formulate collective bargaining strategy, but sub. (3) requires that deliberations leading to ratification of a tentative agreement with a bargaining unit, as well as the ratification vote, must be held in open session. 81 Atty. Gen. 139.

"Evidentiary hearing" as used in sub. (1) (b), means a formal examination of accusations by receiving testimony or other forms of evidence that may be relevant to the dismissal, demotion, licensing, or discipline of any public employee or person covered by that section. A council that considered a mayor's accusations against an employee in closed session without giving the employee prior notice violated the requirement of actual notice to the employee. Campana v. City of Greenfield, 38 F. Supp. 2d 1043 (1999).

Closed Session, Open Book: Sifting the *Sands* Case. Bach. Wis. Law. Oct. 2009.

19.851 Closed sessions by ethics or elections commission. (1) Prior to convening under this section or under s. 19.85 (1), the ethics commission and the elections commission shall vote to convene in closed session in the manner provided in s. 19.85 (1). The ethics commission shall identify the specific reason or reasons under sub. (2) and s. 19.85 (1) (a) to (h) for convening in closed session. The elections commission shall identify the specific reason or reasons under s. 19.85 (1) (a) to (h) for convening in closed session. No business may be conducted by the ethics commission or the elections commission at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).

(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.

History: 2007 a. 1; 2015 a. 118.

19.86 Notice of collective bargaining negotiations. Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under subch. I, IV, or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84 (1) (b). If the employer is not a governmental

body, notice shall be given by the employer's chief officer or such person's designee.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1995 a. 27; 2007 a. 20; 2009 a. 28; 2011 a. 10.

19.87 Legislative meetings. This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

(1) Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

(4) Meetings of the senate or assembly committee on organization under s. 71.78 (4) (c) or 77.61 (5) (b) 3. shall be closed to the public.

History: 1975 c. 426; 1977 c. 418; 1987 a. 312 s. 17.

Former open meetings law, s. 66.74 (4) (g), 1973 stats., that excepted "partisan caucuses of the members" of the state legislature from coverage of the law applied to a closed meeting of the members of one political party on a legislative committee to discuss a bill. The contention that this exception was only intended to apply to the partisan caucuses of the whole houses would have been supportable if the exception were simply for "partisan caucuses of the state legislature" rather than partisan caucuses of members of the state legislature. State ex rel. Lynch v. Conta, 71 Wis. 2d 662, 239 N.W.2d 313 (1976).

In contrast to former s. 66.74 (4) (g), 1973 stats., sub. (3) applies to partisan caucuses of the houses, rather than to caucuses of members of the houses. State ex rel. Newspapers v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

19.88 Ballots, votes and records. (1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

(2) Except as provided in sub. (1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in subch. II of ch. 19.

History: 1975 c. 426; 1981 c. 335 s. 26.

The plaintiff newspaper argued that sub. (3), which requires "the motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection," in turn, required the defendant commission to record and disclose the information the newspaper requested under the open records law. The newspaper could not seek relief under the public records law for the commission's alleged violation of the open meetings law and could not recover reasonable attorney fees, damages, and other actual costs under s. 19.37 (2) for an alleged violation of the open meetings law. The Journal Times v. City of Racine Board of Police and Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13−1715.

Under sub. (1), a common council may not vote to fill a vacancy on the common council by secret ballot. 65 Atty. Gen. 131.

19.89 Exclusion of members. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

History: 1975 c. 426.

19.90 Use of equipment in open session. Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

History: 1977 c. 322.

19.96 Penalty. Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than $25 nor more than $300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

History: 1975 c. 426.

The state need not prove specific intent to violate the Open Meetings Law. State v. Swanson, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

19.97 Enforcement. (1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

(2) In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under s. 19.96, to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

History: 1975 c. 426; 1981 c. 289; 1995 a. 158.

Judicial Council Note, 1981: Reference in sub. (2) to a "writ" of mandamus has been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613−A]

Awards of attorney fees are to be at a rate applicable to private attorneys. A court may review the reasonableness of the hours and hourly rate charged, including the rates for similar services in the area, and may in addition consider the peculiar facts of the case and the responsible party's ability to pay. Hodge v. Town of Turtle Lake, 190 Wis. 2d 181, 526 N.W.2d 784 (Ct. App. 1994).

Actions brought under the open meetings and open records laws are exempt form the notice provisions of s. 893.80. Auchinleck v. Town of LaGrange, 200 Wis. 2d 585, 547 N.W.2d 587 (1996), 94−2809.

Failure to bring an action under this section on behalf of the state is fatal and deprives the court of competency to proceed. Fabyan v. Achtenhagen, 2002 WI App 214, 257 Wis. 2d. 310, 652 N.W.2d 649, 01−3298.

Complaints under the open meetings law are not brought in the individual capacity of the plaintiff but on behalf of the state, subject to the 2−year statute of limitations under s. 893.93 (2). Leung v. City of Lake Geneva, 2003 WI App 129, 265 Wis. 2d 674, 666 N.W.2d 104, 02−2747.

When a town board's action was voided by the court due to lack of statutory authority, an action for enforcement under sub. (4) by an individual as a private attorney general on behalf of the state against individual board members for a violation of the open meetings law that would subject the individual board members to civil forfeitures was not rendered moot. Lawton v. Town of Barton, 2005 WI App 16, 278 Wis. 2d 388, 692 N.W.2d 304, 04−0659

19.98 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.

History: 1975 c. 426.

Appendix B

Open Meetings Law Complaint Form–SAMPLE

VERIFIED OPEN MEETINGS LAW COMPLAINT

Now comes the complainant _____ and as and for a verified complaint pursuant to Wis. Stat. §§ 19.96 and 19.97, alleges and complains as follows:

1. That s/he is a resident of the _____ [town, village, city] of _____, Wisconsin, and that his or her Post Office Address is _____[street, avenue, etc.], _____ [city], Wisconsin _____ [zip].

2. That _____[name of member or chief presiding officer] whose Post Office Address is _____ [street, avenue, etc.], _____ [city], Wisconsin _____ [zip] was on the ____ day of _____ 20____, a _____[member or chief presiding officer] of _____ [designate official title of governmental body] and that such _____ [board, council, commission or committee] is a governmental body within the meaning of Wis. Stat. § 19.82(1).

3. That _____ [name of member or chief presiding officer] on the ___ day of _____, 20____, at _____ County of _____, Wisconsin, knowingly attended a meeting of said governmental body held in violation of Wis. Stat. § 19.96 and _____ [cite other applicable section(s)], or otherwise violated those sections in that [set out every act or omission constituting the offense charged]:

4. That _____ [name of member or chief presiding officer] is thereby subject to the penalties prescribed in Wis. Stat. § 19.96.

5. That the following witnesses can testify to said acts or omissions:

Name	Address	Telephone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. That the following documentary evidence of said acts or omissions is available: _____.

7. That this complaint is made to the District Attorney for _____ County under the provisions of Wis. Stat. § 19.97, and that the district attorney may bring an action to recover the forfeiture provided in Wis. Stat § 19.96.

WHEREFORE, complainant prays that the District Attorney for _____ County, Wisconsin, timely institute an action against_____[name of member or chief presiding officer] to recover the forfeiture provided in Wis. Stat. § 19.96, together with reasonable costs and disbursements as provided by law.

STATE OF WISCONSIN)
) ss.
COUNTY OF _____)

_____ being first duly sworn on oath deposes and says that s/he is the above-named complainant, that s/he has read the foregoing complaint and that, based on his or her knowledge, the contents of the complaint are true.

_____
COMPLAINANT

Subscribed and sworn to before me
this ____ day of _____, 20___.

_____
Notary Public, State of Wisconsin
My Commission: _____

2026 STANDING COMMITTEES

Building, Zoning & Ordinances Committee		Term
Ord.§110-3(E)	**Susan Franzen, Chair**	Annual
	George Vlach	Annual
	Steve Russell	Annual
Finance & Personnel Committee		**Term**
Ord.§110-3(A)	**Lowell Wright, Chair**	Annual
	Rob Umans	Annual
	Mary Bartholomew	Annual
Parks & Lakefront Committee		**Term**
Ord.§110-3(D)	**Steve Russell, Chair**	Annual
	Lowell Wright	Annual
	George Vlach	Annual
Protective Services Committee		**Term**
Ord.§110-3(C)	**George Vlach, Chair**	Annual
	Rob Umans	Annual
	Susan Franzen	Annual
Water & Sewer Committee		**Term**
Ord.§110-3(F)	**Rob Umans, Chair**	Annual
	Steve Russell	Annual
	Mary Bartholomew	Annual
Streets & Highways Committee		**Term**
Ord.§110-3(B)	**Mary Bartholomew, Chair**	Annual
	Susan Franzen	Annual
	Lowell Wright	Annual

2025 ELECTED AND APPOINTED OFFICIALS

VILLAGE BOARD	Address:	Term:	Expires:	Telephone Number:
Adam Jaramillo, President	350 W Geneva St	2 Yrs	4/20/2027	262-374-9664
Susan Franzen	372 W Geneva St	2 Yrs	4/20/2027	262-607-2122
George Vlach	70 Walworth Ave, PO Box 406	2 Yrs	4/20/2027	608-381-0574
Mary Bartholomew	397 Observatory Pl	2 Yrs	4/20/2027	262-249-6805
Lowell Wright	26 Johnson Terr	2 Yrs	4/18/2028	262-245-5962
Robert Umans	528 Morgan Dr	2 Yrs	4/18/2028	847-809-9261
Steve Russell	475 Chasefield Ct	2 Yrs	4/18/2028	262-475-9321
Appointed Staff Ord. § 80		Term	Expires	
Village Administrator (§ 80-3)	David Lothspeich	3 Yrs	4/17/2029	
Village Clerk (§ 80-1C)	Tina Kolls	3 Yrs	4/20/2027	
Village Treasurer (§ 80-1D)	Jennifer Wiese	3 Yrs	4/20/2027	
Building Inspector (§ 80-1H)	SAFEbuilt	Annually	4/21/2026	
Zoning Administrator (§ 80-1J)	Schaeffer Municipal Services	Annually	4/21/2026	
Village Auditor (§ 80-1I)	Baker Tilly Virchow Krause, LLP	Annually	4/21/2026	
Village Engineer (§ 80-1B)	Baxter & Woodman	Annually	4/21/2026	
Village Attorney (§ 80-1A)	Consigny Law Firm, S.C.	Annually	4/21/2026	
Village Assessor (§ 80-1E)	Accurate Apprasal	Annually	4/21/2026	
Weed and Tree Commissioner (§ 80-1F)	Municipal Code Enforcement	Annually	4/21/2026	
Civil Defense Commissioner (§ 80-1G)	Police Chief	Annually	4/21/2026	

Other Annual Designations

Official Newspaper Designation

Lake Geneva Regional News
Kenosha News

Board of Health Ord. § 12-3

Walworth County Health & Human Services Board

Board of Review Ord. §12-1 and Wis. Stats. 70-46

Board of Review shall consist of the Village Board

Election Board Ord. §12-6

Clerk & Appointed Election Officials under Wis. Stats. 7.30

Geneva Lake Environmental Agency

LaMarr Lundberg, Citizen Rep
Rob Umans, Village Board Rep

Geneva Lake Use Committee

Colin Doerge, Citizen Rep
Steve Russell, Village Board Rep

Geneva Lake Law Enforcement Agency Ord. §281-7

Adam Jaramillo, Village President

Rev 4/24

2025 APPOINTMENTS TO COMMITTEES COMMISSIONS AND BOARDS

Civil Defense Commission Ord. § 12-5		Term	Expires	Address	Email	Phone
Police Chief	Police Chief, Chair	Annual	4/20/2027	PO Box 580	chief@williamsbay.org	262-245-2710
David H. Burrough	Citizen Member	Annual	4/20/2027	140 Potawatomi Rd	burroughfloors@gmail.com	262-203-0301
Rich Gluth	Rescue Squad Captain/Citizen	Annual	4/20/2027	95 Lackey Dr	williamsbayems@gmail.com	262-325-0048
Paul Nicholson	Citizen Member	Annual	4/20/2027	168 W. Geneva St	bopbop61@yahoo.com	262-245-2561
Doug Smith	Fire Chief/Citizen	Annual	4/20/2027	32 Hill Street	wbfire01@gmail.com	262-949-2203
Dale Vavra	Citizen Member	Annual	4/20/2027	35 Orchard	dvavra@williamsbay.org	262-949-5403
George Vlach	Village Board Member/Citizen	Annual	4/20/2027	70 N. Walworth Ave	gvlach@vi.williamsbay.wi.gov	608-381-0574

Kishwauketoe Nature Conservancy Board Ord. § 12-9 (B)		Term	Expires	Address	Email	Phone
Donald Skalla	Chair	5 Years	4/15/2030	266 Frost Cir	jskalla@williamsbay.org	262-903-5291
Jim Killian	Vice Chair	5 Years	4/20/2027	91 Potowatami I2	jkillian@williamsbay.org	262-374-2467
Elizabeth Cox	Member	5 Years	4/15/2030	270 Park Place		262-215-7915
Chrissy Wen	Member (Non-Resident)	5 Years	4/18/2028	N3007 Marshall Ln, Lake Geneva	christine.wen@wisc.edu	262-379-9431
Kim Parker	Member	5 Years	4/18/2028	354 Forest Dr.	kparker@gmail.com	262-245-1709
Brenda Dahlfors	Member	5 Years	4/18/2028	141 W Geneva St.		815-337-4105
Brian J Cook	Member	5 Years	4/17/2029	89 Medinah Ln. Fontana	brian.cook606@gmail.com	312-961-8841

Ethics Board Ord. § 40-5		Term	Expires	Address	Email	Phone
Colin Doerge	Member	3 Years	4/18/2028	61 Hill Street	colin.doerge@gmail.com	412-480-8651
John P. Marra	Member	3 Years	4/17/2029	548 Wiswell Dr	ref-ump@sbcglobal.net	262-245-9373
Michelle Weber	Member	3 Years	4/20/2027			262-245-9889
Roberta Killian	Alternate Member	3 Years	4/20/2027	91 N Potawatomi Rd #I2		

Harbor Commission Ord. § 12-7 & Wis. Stats §30.37		Term	Expires	Address	Email	Phone
Steve Russell	Chair	3 Years	4/17/2029	539 Park Ridge Rd.	tom.lothian@gmail.com	262-245-5901
Lowell Wright	Village Trustee	Annual	4/20/2027	475 Chasefield Ct	srussell@vi.williamsbay.wi.gov	262-475-9321
Tom Lothian	Member	3 Years	4/17/2029	PO Box 1343	rrlamkey@aol.com	847-878-8228
Tom Shaughnessy	Member	3 Years	4/20/2027	45 Liechty Dr	tyvek2@aol.com	630-532-0466
Matt Robbins	Member	3 Years	4/17/2029	371 Frost Dr	mrobbins@novaresteam.com	262-215-9019

Law Enforcement Committee Ord. § 12-10		Term	Expires	Address	Email	Phone
Frank Bonifacic		3 Years	4/17/2029	342 Circle Pkwy	fbonifacic@aol.com	847-800-3313
Jeanne Hannula		3 Years	4/20/2027	441 Frost Dr	jeanne.hannula@gmail.com	847-445-2489
Jack Jones		3 Years	4/18/2027	34 Elm S	jjkna50@aol.com	630-688-6742

Parks and Memorial Advisory Committee Ord. §12-8		3 Years	Term	Address	Email	Phone
Michael Fieweger	Chair	3 Years	4/18/2028	536 Morgan Dr	2206fieweger@gmail.com	262-607-6052
Jess Haak	Citizen Member	3 Years	4/18/2028	20 Congress St	jess@adamspower.com	262-749-6563
Connie Gluth	Citizen Member	3 Years	4/30/2027	95 Lackey Dr	conniemgluth@yahoo.com	262-245-5527
Bob Kantor	Citizen Member	3 Years	4/30/2027	524 Wiswell Dr	chocol8s4u@yahoo.com	262-245-9477
Halina Marra	Citizen Member	3 Years	4/18/2028	548 Wiswell Dr	hrmarra@gmail.com	262-245-9373

Plan Commission § 12-4 and Wis. Stats. §62.23(1)		Term	Expires	Address	Email	Phone
Adam Jaramillo, Chair	Village President	2 Years	4/20/2027	350 W Geneva St	ajaramillo@vi.williamsbay.wi.gov	262-374-9664
Lowell Wright	Village Board Member	Annual	4/20/2027	26 Johnson Terr	lwright@williamsbay.org	262-245-5962
Michael Fieweger	Parks & Memorial Board Member	Annual	4/20/2027	536 Morgan Dr	2206fieweger@gmail.com	262-607-6052
Matt Robbins	Citizen Member	3 Years	4/18/2028	371 Frost Dr	mattdrobbins@yahoo.com	262-215-9019
Maggie Gage	Citizen Member	3 Years	4/20/2027	PO Box 220	maggiegage1@gmail.com	262-385-0529
Jess Haak	Citizen Member	3 Years	4/18/2028	20 Congress St	jess@adamspower.com	262-749-6563
Marianne Klemke	Citizen Member	3 Years	4/17/2029	PO Box 64	mklemke@sbcglobal.net	262-245-6410
Colin Doerge	Alternate Member	3 Years	4/18/2028	61 Hill Street	colin.doerge@gmail.com	412-480-8651

Library Board Wis. Stats.§43.54		Term	Expires	Address	Email	Phone
Edgar (Skip) Mosshamer	President (County Appt.)	3 Years	4/18/2028	27 Constance Blvd	gitmsdicti@gmail.com	262-607-0736
Gretchen Witowich	Vice President/Secretary (County Appt)	3 Years	4/18/2028	517 Prairie View	gwitowich@gmail.com	262-607-0986
Bob Waddell	Treasurer (County Appt)	3 Years	4/20/2027		marklin1234@charter.et	262-903-8850
James Bindl	Member	3 Years	4/20/2027	352 Forest Dr	jbindl9490@charter.net	262-245-9490
Roberta Rohdin Killian	Member (County Appt)	3 Years	4/18/2028	91 N Potawatomi Rd #I2	rohr49@yahoo.com	262-245-9268
Lowell Wright	Village Trustee	Annual	4/20/2027	350 W Geneva Street	lwright@vi.williamsbay.wi.gov	262-245-5962
Dr. William White	School Board Representative	Annual	4/20/2027		wwhite@williamsbayschool.org	262-245-1575
Mary Connolly	Member	3 Years	4/17/2029	305 Circle Pkwy	connolmk@yahoo.com	847-226-4188
Ralph Cincinelli	Member	3 Years	4/17/2029	357 Forest Dr	rlcincinelli@hotmail.com	847-708-9895

Zoning Board of Appeals § 390-1105 Wis. Stats. §62.23(7)e		Term	Expires	Address	Email	Phone
George Vlach, Chair	Chairman/Trustee/Contractor	Annual	4/20/2027	70 N. Walworth Ave	gvlach@vi.williamsbay.wi.gov	608-381-0574
Rob Umans	Trustee	Annual	4/20/2027	528 Morgan Dr	rumans@vi.williamsbay.wi.gov	847-809-9261
Matt Robbins	Plan Member	3 Years	4/17/2029	371 Frost Dr	mattdrobbins@yahoo.com	262-215-9019
Michael O'Brien	Member	3 Years	4/20/2027	503 Willabay Dr	mfobrien1924@gmail.com	630-327-1785
Tom Lothian	Member	3 Years	4/20/2027	539 Park Ridge Rd.	tom.lothian@gmail.com	262-245-5901
Mike Fieweger	First Alternate	3 Years	4/17/2029	536 Morgan Dr	2206fieweger@gmail.com	262-607-6052
Connie Gluth	Second Alternate	3 Years	4/20/2027	95 Lackey Dr	conniemgluth@yahoo.com	262-245-5527

Enhancement Committee		Term	Expires	Address	Email	Phone
Halina Marra	President	Annual	4/20/2027	548 Wiswell Dr	hrmarra@gmail.com	262-245-9373
Rita Pilarski	Member	Annual	4/20/2027	556 Wilmette Rd	rmpsaturn@sbcglobal.net	312-505-1092
Sarah Elliott	Member	Annual	4/20/2027			
Mary Ann Bucaro	Member	Annual	4/20/2027	90 Potawatomi Rd #4C		262-607-6398
Pat Grove	Member	Annual	4/20/2027	511H Woodlawn Ct	johnandpatgrove@yahoo.com	262-374-9365
Mary Jo Petullo	Member	Annual	4/20/2027	PO Box 314	petullofam@gmail.com	262-607-6169
Kathy O'Brien	Member	Annual	4/20/2027			
Laurie Ihde	Member	Annual	4/20/2027	84 Lincoln Pkwy		224-558-2538
Diane Kelly	Member	Annual	4/20/2027	91 N Potawatomi Rd #C3		815-621-6396
Ashley Sopchyk	Member	Annual	4/20/2027	647 E Geneva St		224-829-8345

Joint Extraterritorial Zoning Committee (ETZ Joint Comm) Ord. § & Wis. Stats. 62.23(7a)		Term	Expires	Address	Email	Phone
Matt Robbins	Chair	3 Years	4/18/2028	371 Frost Dr	mattdrobbins@yahoo.com	262-215-9019
Jess Haak		3 Years	4/20/2027	20 Congress St	jessplumber@gmail.com	262-749-6563
Michael O'Brien	Member	3 Years	4/17/2029	503 Willabay Dr	mfobrien1924@gmail.com	630-327-1785

Extraterritorial Zoning Board of Appeals (ETZ-BOA) Ord. § 390-1716		Term	Expires	Address	Email	Phone
Don Parker	Chair	3 Years	4/18/2028	354 Forest Dr	wbtparker@gmail.com	262-245-1709
Vernon Choyce	Member	3 Years	4/20/2027	353 Forest Dr	vchoyce@arriscorp.com	262-903-7555
Michael O'Brien	Member	3 Years	4/17/2029	402 Lakewood Dr	mikeobrien1017@gmail.com	262-812-6600
Connie Gluth	1st Alternate	3 Years	4/17/2029	95 Lackey Dr	conniemgluth@yahoo.com	262-215-3144
Spencer Weber	2nd Alternate (Town)	3 Years	4/17/2029	PO Box 103	sweber154@charter.net	262-245-9889

Tree Enhancement Committee		Term	Expires	Address	Email	Phone
Rob Umans	Village Trustee Member	1 Year	4/20/2027	528 Morgan Dr	rumans@williamsbay.org	847-809-9261
Steve Russell	Village Trustee Member	1 Year	4/20/2027	475 Chasefield Ct	srussell@vi.williamsbay.wi.gov	262-475-9321
Donald Skalla	KNC Member	1 Year	4/20/2027	266 Frost Cir	jskalla@williamsbay.org	262-903-5291
Halina Marra	Enhancement Committee Member	1 Year	4/20/2027	548 Wiswell Dr	hrmarra@gmail.com	262-245-9373
William Speare	Cedar Point Homeowners Assoc Member	1 Year	4/20/2027	669 Jackson Pkwy	bill@sprearetools.com	262-745-5770

Joint EMS Advisory Committee		Term	Expires	Address	Email	Phone
David Lothspeich	Village Administrator	1 Year	4/20/2027		admin@vi.williamsbay.wi.gov	262-245-2700
George Vlach	Protective Services Committee Chair	1 Year	4/20/2027	70 Walworth Ave	gvlach@vi.williamsbay.wi.gov	608-381-0574

Tourism Commission		Term	Expires	Address	Email	Phone
Adam Jaramillo	Member	1 Year	4/20/2027	350 W Geneva St	ajaramillo@vi.williamsbay.wi.gov	262-374-9664
Steve Russell	Member	1 Year	4/20/2027	475 Chasefield Ct	srussell@vi.williamsbay.wi.gov	262-475-9321
Lowell Wright	Member	1 Year	4/20/2027	26 Johnson Terr	lwright@vi.williamsbay.wi.gov	262-245-5962
Dawn Marie Mancuso	Member	1 Year	4/20/2027			262-215-0616
Jim D'Alessandro	Village Hotel/Motel Member	1 Year	4/20/2027			262-903-9806
Susan Franzen	Village Trustee Member	2 Year	4/20/2028	372 W Geneva St	sfranzen@vi.williamsbay.wi.gov	262-607-2122