

*****ATTACHMENTS*****

ETHICS CODE OF THE CITY OF SHEBOYGAN

Sec. 2-261. *Definitions.*

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Financial interest means any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer, employee, or agent, any member of his or her immediate family, his or her partner, or a person or organization which employs or retains or is about to employ or retain any of the parties indicated herein.

Officer includes any person who holds an elected or appointed office of the city.

Personal interest means any interest, whether or not any financial interest is involved, arising from: (1) any member of the officer, employee, or agent's immediate family; (2) the officer, employee, or agent's partner; (3) a person or organization which employs or retains or is about to employ or retain any of the parties indicated in (1) or (2); or (4) a close political association.

Sec. 2-262. *State law adopted.*

The provisions of Wis. Stats., § 19.59, as amended, Code of Ethics for local government officials, employees and candidates, are adopted by reference in this section as if fully set forth.

Sec. 2-263. *Declaration of policy.*

The proper operation of democratic government requires that public officers, employees, and agents be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public has confidence in the integrity of its government. In recognition of these goals, there is established a code of ethics for all city officers, employees, and agents, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the city. The purpose of this article is to establish guidelines for ethical standards of conduct for all such officers, employees, and agents by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officers, employees, and agents of private financial or other interest in matters affecting the city. The common council recognizes that the officers, employees, and agents of the city are drawn from society and, therefore, cannot and should not be without all

personal and economic interest in the decisions and policies of government; that citizens who serve as city officers, employees, and agents retain their rights as citizens to interests of a personal or economic nature; that the standards of ethical conduct for city officers, employees, and agents need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts which are substantial in material; and that city officers, employees, and agents 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 a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of this article. The provisions and purpose of this article and such rules and regulations as may be established under this article are declared to be in the best public interest. It is the intent of the common council that, in its operations, the ethics board established under this article shall protect, to the fullest extent possible, the rights of individuals affected.

Sec. 2-264. *Ethics board.*

Administration and civil enforcement of this article is vested in an ethics board consisting of all of the aldermen. The chairman of the council committee of the whole shall serve as chairman of the ethics board. The city clerk shall attend the meetings of the ethics board and shall keep a full record of its proceedings. In the absence of the clerk, the deputy city clerk shall perform the duties of the clerk. The board may issue subpoenas, administer oaths and investigate any violation of this article on its own motion or upon complaint by any person. The board may issue opinions upon request. Notwithstanding Wis. Stats., § 19.35, records of the board's opinions, opinion requests and investigations of violations of this article may be closed in whole or in part to public inspection. Any member who is himself the subject of investigation by the board for any violation of this article shall be excused from participation as a board member in such investigation.

Sec. 2-265. *Applicability of article.*

When a city officer, employee, or agent has doubt as to the applicability of a provision of this article to a particular situation or definition of terms used in this article, he or she shall apply to the ethics board for an advisory opinion and will be guided by that opinion when given. The officer, employee, or agent shall have the opportunity to present his or her interpretation of the facts at issue and of the applicable provisions of this article before such advisory decision is made. This article shall be operative in all instances covered by its provisions, except when superseded by an applicable statutory provision and statutory action is mandatory, or

when the application of a statutory provision is discretionary but determined by the ethics board to be more appropriate or desirable."

Sec. 2-266. *Violations.*

Violation of any provision of this article may constitute a cause for suspension, removal from office or employment or other disciplinary action.

Sec. 2-267. *Responsibility of public officials and employees.*

- (a) 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 the state and carry out impartially the laws of the nation, state and city 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. Their conduct in both their official and private affairs should be above reproach so as to foster respect for all government.
- (b) Public officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

Sec. 2-268. *Use of public property.*

No city officer, employee, or agent shall request or permit the unauthorized use of city-owned vehicles, equipment, materials, or property for personal convenience or profit."

Sec. 2-269. *Obligations to citizens.*

No city officer, employee, or agent shall grant any special consideration, treatment or advantage to any citizens beyond that which is available to every other citizen."

Sec. 2-270. *Conflict of interest.*

No city officer, employee, or agent, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her official duties in the public interest contrary to this article or which would tend to impair his or her independence of judgment or action in the performance of his or her official duties."

State Ethics Code
(§ 19.59, Wis. Stats.)

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.

Note: subparagraphs (f) and (g) are omitted as non-relevant to city officials

- (1m) In addition to the requirements of sub. (1), any county, city, 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, city, 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.
- (5)
- (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.
- (6) 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.
- (7)

 - (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.
- (8)

 - (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.

Sec. 2-271. *Incompatible private employment.*

No city officer, employee, or agent shall engage in or accept private employment or render service for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless otherwise permitted by law and unless disclosure is made as provided in this article."

Sec. 2-272. *Disclosure of confidential information.*

No city officer, employee, or agent shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city nor shall he or she use such information to advance the financial or other private interest of himself or herself or others."

Sec. 2-273. *Gifts and favors.*

- (a) No city officer, employee, or agent may solicit or accept any valuable gift, favor or thing from any person who to his or her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the city nor shall any such officer, employee, or agent accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties or grant in the discharge of his or her duties any improper favor, service or thing of value. Favors shall include but are not limited to admission tickets to sports or entertainment events, restaurant meals, transportation for personal purposes and providing accommodations at a hotel or resort.
- (b) Absent other unusual circumstances, the following actions of officers, employees, or agents shall not be deemed to be violations of this article:
 - (1) Receipt of a gift that is an unsolicited item of nominal intrinsic value.
 - (2) Receipt of mementos, such as coffee cups, paperweights, etc. provided the value received does not exceed \$20.00 and that distribution is of a general nature.
 - (3) Attendance or participation at modest ceremonial events, i.e., ground breakings, grand openings, receptions, as well as business lunches, outings and conferences, provided the value received does not exceed \$30.00.

(4) Attendance or participation at events or functions sponsored by the city where there is no intend to influence the officer, employee, or agent.

(c) Gifts or favors received under unusual circumstances should be referred to the appropriate departmental supervisor or to the ethics board within ten days for recommended disposition."

Sec. 2-274. *Representing private interests before city agencies.*

No city officer, employee, or agent shall appear on behalf of any private person, other than himself or herself, or his or her spouse or minor children, before any city agency. However, a member of the common council may appear before city 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."

Sec. 2-275. *Contracts with city.*

No city officer, employee, or agent who, in his capacity as such officer, employee, or agent, participates in the making of a contract in which he or she has a private financial interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his or her part shall enter into any contract with the city unless, within the confines of Wis. Stat. § 946.13:

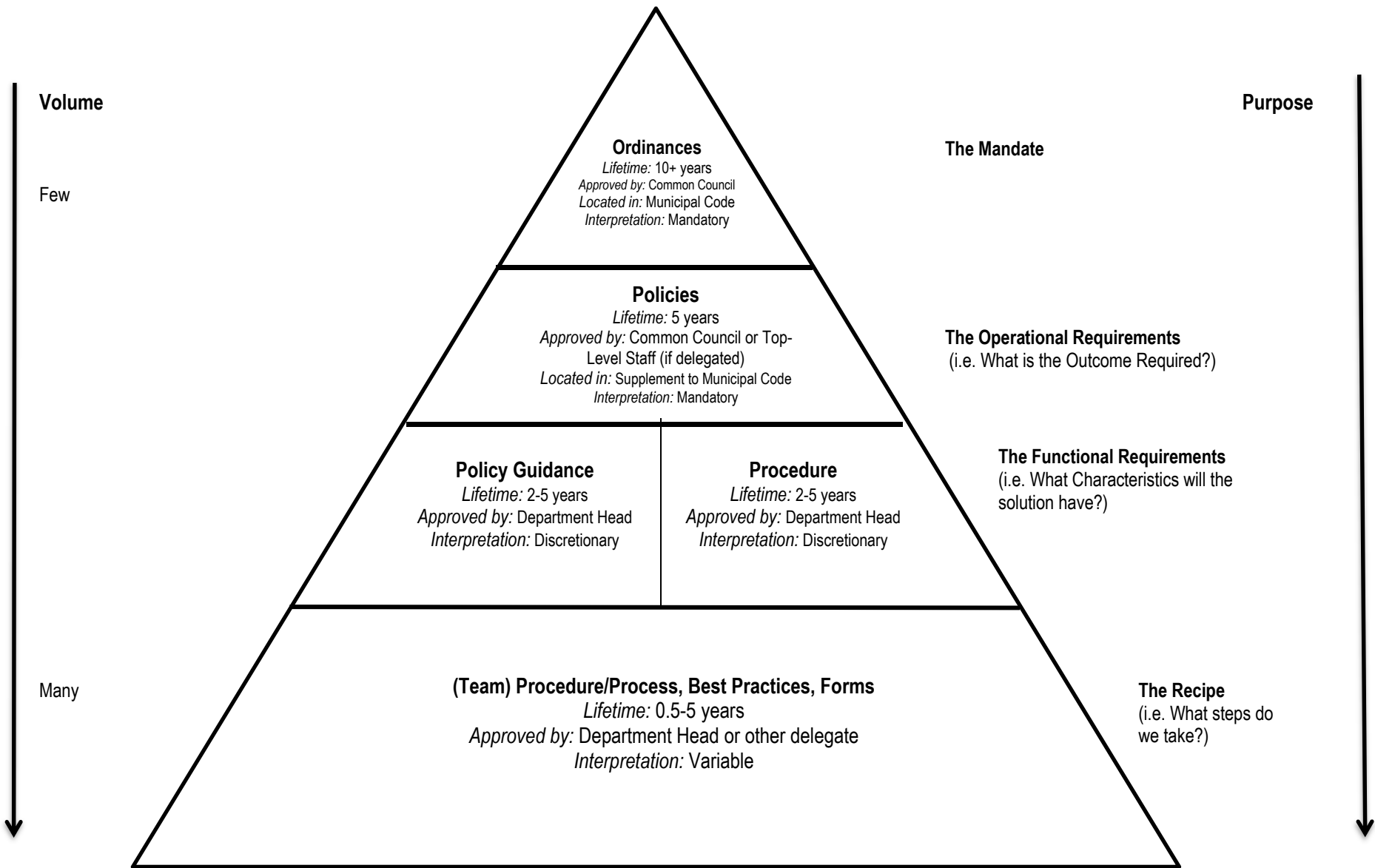
- (1) The contract is awarded through a process of public notice and competitive bidding; or
- (2) The ethics board created in this article waives the requirement of this section after determining that it is in the best interest of the city to do so."

Sec. 2-276. *Disclosure of interest in legislation.*

Any member of the common council who has a financial interest or personal interest in any proposed legislation before the common council shall disclose on the records of the common council or the ethics board created in this article the nature and extent of such interest. Any other officer, employee, or agent who has a financial or personal interest in any proposed legislative action of the common council and who participates in discussion with or gives an official opinion or recommendation to the common council shall disclose on the records of the common council or the ethics board the nature and extent of such interest."

Sec. 2-277. *Campaign contributions.*

Campaign contributions shall be reported by all candidates for city office in strict conformity with state law. Any campaign contribution tendered to or accepted by a candidate subsequent to the final statutory report shall be reported to the ethics board.



*Modified from "The Five Golden Rules for Creating Effective Policy"

CITY OF SHEBOYGAN

DEPARTMENTAL CORRESPONDENCE

TO: Todd Wolf
City Administrator

FROM: Charles C. Adams
City Attorney

SUBJECT: Powers of Mayor, Administrator, and Common Council

DATE: January 21, 2021

You asked to meet to discuss the respective powers of the mayor, administrator, and common council. In preparation for that meeting, I have drafted this memo as an outline for our meeting and as a document you can keep on hand for later reference.

I. FORMS OF MUNICIPAL GOVERNMENT IN WISCONSIN

A. Three Types of Municipal Governments

In Wisconsin there are many types of governments. Most people are aware of state, county, and municipal government, as well as school districts and technical college districts.

However, beyond that, there are many other types of special purpose governments, such as sewerage districts, housing authorities, and the Miller Park construction district. There are only three forms of local general-purpose ("municipal") governments: towns, villages, and cities.

1. Towns

Cities and villages are full municipal corporations, while towns are a lesser form of government, designed not to provide the full spectrum of services found in cities and villages. As such, towns have a very different form of government from cities and villages. For example, they hold an annual town meeting where residents can discuss and vote on many issues of town governance.

2. Villages

Villages are more like cities—they have a level of home rule under the state constitution and they are governed by elected representatives. Unlike cities, however, villages do not have separate executive and legislative functions. Villages are led by a board of trustees. One of those trustees is the Village President. Both executive and legislative functions are united

within the Village Board. A village may appoint a Village Administrator, who in many cases has rather broad authority both in executive and legislative functions.

3. Cities

Cities also enjoy a level of constitutional home rule. However, executive and legislative functions are generally separated. It may be helpful to think of the difference at the federal level between Presidential power (executive power) and Congress (legislative power.) This illustration isn't perfect, but it does provide a framework for thinking through the exercise of authority in Wisconsin cities.

B. Two Types of City Governance

1. Mayor-Council

Cities in Wisconsin generally operate under what is termed the Mayor-Council form of government. Mayors in this system are often called "strong mayors" and have a large degree of control and responsibility over the executive functions of municipal government. In fact, in Wisconsin, mayors are designated as the chief executive officer of a city with a Mayor-Council form of government. This form of government is set forth in Chapter 62 of the Wisconsin Statutes. That said, some commentators describe Wisconsin mayors as "weak mayors" because they do not have the nearly unfettered authority that mayors in some major U.S. cities have. Some powers are retained by the common council.

2. Council-Manager

Cities do have the option of two other forms of governance. One, the commission model, has disappeared in Wisconsin, though it is technically an option. The other is the Council-Manager form of government in which an elected city council appoints a City Manager to oversee day-to-day municipal operations, draft a budget, and implement and enforce the council's initiatives. This form of government is set forth in Chapter 64 of the Wisconsin Statutes.

3. Mayor-Council as the default form of city government

Unless a City specifically chooses to adopt the Council-Manager form of government, it must follow the Mayor-Council form of government. A 2016 survey suggests that only about 10% of cities

in Wisconsin have chosen to be governed under the Council-Manager form of governance.

4. Distinguishing the types of authority exercised by various municipal officials

Before moving on to the various roles and authorities granted to the mayor and the administrator under state law and city ordinances, it is worth discussing the difference between legislative powers (which are exercised or delegated by the common council), executive powers (which are exercised or delegated by the mayor), and administrative powers (which may be exercised or delegated in multiple ways.)

Legislative powers clearly include enacting legislation. As such, the common council retains authority over adopting a budget, determining the services a municipality will provide, or enacting land use regulations. Development of citywide policies may also be seen as a legislative function, one that is often delegated to an administrator or others.¹

Executive powers include directing staff; interpreting policies; creating procedures, internal guidance, and forms to assist with the execution of policies that have been approved by the legislative branch; determining the details of carrying out services the governing body has decided to provide; and making other decisions related to matters where legislation is silent as to the details.²

Administrative powers include such things as carrying out very specific instructions, signing checks, etc.³ Administrative powers are often described as "ministerial duties" and are often considered to be contained within executive authority.⁴

Legislative power, as opposed to executive power and administrative power, "is the authority to make laws, but not to enforce them, or appoint the agents charged with the duty of such enforcement."⁵ In drawing the difference between legislative power and executive power, the test for deciding what is legislative and what is executive or administrative "has been said to be whether

¹ Davis, Maria and Silverman, Claire: "Roles and Authority of Governing Body Members," published in the June 2019 issue of The Municipality, p. 19-20

² *Ibid.*

³ *Ibid.*

⁴ 2A McQuillin Mun. Corp. sec. 10:6 (3d ed.) (footnotes omitted).

⁵ *Ibid.*

the ordinance is one making a new law, or one executing a law already in existence.”⁶

The line between legislative acts and executive acts is not always entirely clear. As such, the lines dividing the authority of a mayor and that of an administrator are also not always clear cut.

II. SHEBOYGAN’S FORM OF GOVERNMENT

A. Role of the Mayor

Sheboygan operates under the Mayor-Council form of government. As such, the mayor is the chief executive officer of the city, and the common council generally exercises legislative authority.

1. As chief executive officer of the city

The mayor is the city’s chief executive officer.⁷ As such, the mayor exercises executive authority on behalf of a city by ensuring that city ordinances and state laws are observed and enforced, overseeing day-to-day operations, and making sure that all city officers and employees discharge their duties.

2. Relationship with the common council

The mayor is considered to be a member of the common council⁸, albeit a member with a different role and authority from an alderperson. The mayor cannot vote except in a case of a tie,⁹ but he or she presides over council meetings and can veto acts or decisions of the council.¹⁰ In Sheboygan, the mayor not only has general veto power, but can exercise a partial budget veto, thereby disapproving of any annual budget item.¹¹

Mayors also have the authority to provide any information and make such recommendations to the common council as he or she sees fit.¹² As presiding officer, the mayor also exercises control over the council agenda, though there are provisions in the city code to allow the common council to place items on the agenda over the objection of the mayor.¹³ The mayor makes the

⁶ *Ibid.*

⁷ Wis. Stat. §62.09(8)(a)

⁸ Wis. Stat. §62.11(1)

⁹ Sheboygan Municipal Code, §2-135

¹⁰ Wis. Stat. §62.09(8)(c)

¹¹ Code, §2-137

¹² Wis. Stat. §62.09(8)(b)

¹³ Code, §2-170

decision whether to call special meetings.¹⁴ The mayor makes most appointments to boards, commissions, and committees,¹⁵ and serves *ex officio*¹⁶ on a number of city boards and commissions, in some cases as the chair.

3. Emergency powers of the mayor

The mayor also has certain emergency powers. The mayor may declare an emergency if, due to the emergency conditions, the common council is unable to meet with sufficient promptness to declare the emergency¹⁷. (Though, such a declaration is subject to ratification, alteration, modification, or repeal by the common council once they can meet.)¹⁸ The mayor specifically has authority to declare snow emergencies or to issue emergency orders closing streets, sidewalks, and city parking areas.¹⁹

4. Ultimate head in charge of police and fire departments

Because Sheboygan has not granted the optional powers it could grant the Police and Fire Commission, the Mayor of Sheboygan is the ultimate head of the city's police and fire departments.²⁰

5. Other powers and duties of the mayor

Some lesser known powers of the mayor include the following: the mayor serves with the City Attorney and the Director of Public Works and Engineering on a board that determines compensation for all encroachments.²¹ The mayor may consent or withhold consent from the appointment of the cemetery and parks supervisor (and his or her assistants) as special police officers within the cemetery,²² as well as approve any auxiliary police officers.²³ The mayor must approve any gift or reward from a person (or friends or benefactors of such person) who was in

¹⁴ Code, §2-114

¹⁵ See, e.g., Code, §2-222

¹⁶ Note that many people misunderstand the term *ex officio* to mean "non-voting." The term does not mean "non-voting," but rather means that a person is serving in an office or position solely by virtue of their office. For example, the mayor serves *ex officio* as the chair of the capital improvements commission. He or she has a vote, but upon leaving the office of mayor, the new mayor takes that position with no need for appointment or confirmation.

¹⁷ Code, §42-101(a)

¹⁸ Code, §42-101(b)

¹⁹ Code, §42-104(a)

²⁰ Wis. Stat. §62.09(8)(d)

²¹ Code, §110-112

²² Code, §34-93

²³ Code, §54-68

custody or was discharged from custody.²⁴ The mayor may request that the required record of arrests to be provided to the common council be done so more than just quarterly.²⁵ The mayor must approve any parade permits issued in connection with a circus, a dog or pony show, or a menagerie.²⁶

B. Role of the City Administrator

City administrators are not statutorily-created positions. The position is created by a city under its home rule powers. As such, there is a wide variety of authority granted to such administrators.

1. History of the position

In Sheboygan, the position was first created in 2011.²⁷ The position was initially called "chief administrative officer," and that terminology still appears in some places in the Municipal Code.²⁸ The chief administrative officer was also the finance director and held the role of treasurer.

In 2016, when the first appointee decided to retire at the end of his term, the common council was divided on whether to continue the position. A proposal to eliminate the position and give all authority granted to the chief administrative officer to the mayor, except those already held by the treasurer²⁹ was defeated. Instead, the common council simply hired a new person to the position, but began to refer to that person as the City Administrator.

Some of the financial duties of the job were transferred to the finance director (including the duties of treasurer, along with the duties as comptroller she already had), and a number of city policies were changed to reflect the thought that the administrator should be involved more broadly in administering the day-to-day work of all of the departments.

As such, the common council, via resolution, authorized changes in policies that authorized the administrator to do performance

²⁴ Code, §54-106

²⁵ Code, §54-65

²⁶ Code, §14-164

²⁷ Ord. No. 24-11-12, passed October 3, 2011

²⁸ See, e.g., Chapter 2, Article III, Division 5 of the Code, which establishes the position, sets the method of appointment and term, and sets forth the duties of the position.

²⁹ The first chief administrative officer also exercised the role of treasurer and comptroller.

reviews for department heads.³⁰ Note, however, that said authority does not supplant the duty and authority of the mayor granted by statute to ensure that all city officers and employees discharge their duties.³¹

2. General role of administrator

Since the administrator is not an official with statutory authority, any determination of power is set forth by ordinance. City ordinances may not overrule state statutes. The administrator is a creature of the common council, and the common council may generally delegate its authority to the administrator, though it may not remove authority statutorily granted to the mayor. Where the statutes are not clear on what authority is granted to the common council versus the mayor, it may be possible for both officers to hold dual authority, especially when, as has been the case for the past eight years, there is general accord between the mayor and the administrator over who will primarily exercise certain types of authority. That said, where it is not clear that a particular power is granted solely to either the mayor or the common council, it can be helpful to recall that the mayor general fulfills the role of the executive branch and the administrator fulfills the role of the legislative branch.

The Sheboygan Municipal Code provides little guidance as to the duties and authority of the administrator in the specific portion of the statute that sets forth the duties, noting only that the person "shall perform the duties and shall have the authority and powers prescribed by the common council."³² However, other sections of the Code set forth specific duties and authority that have been delegated to the administrator.

The duties and powers delegated to the administrator by the common council include those set forth in the following paragraphs.

³⁰ Note that technically the city has both offices and departments. The elected heads of offices (City Clerk, City Attorney, and Municipal Judge) are also generally referred to as department heads, but their offices are not overseen by the City Administrator. The non-elected heads of offices (treasurer/comptroller, assessor, police chief, and fire chief) are also generally referred to as department heads and the City Administrator does performance reviews for these officers. As noted later in this memo, there are potential issues with this process, especially as it relates to the police and fire chiefs.

³¹ Wis. Stat. §62.09(8)(a)

³² Code, §2-342

3. Role of the administrator as relates directly to the common council or its committees

The administrator is one of several officials who have the privilege of the floor at common council meetings without the need for a special motion to open the floor.³³

The administrator is required to meet annually with the finance and personnel committee to project goals and objectives for the ensuing budget year.³⁴

The administrator has the duty to establish and maintain a purchasing policy, and notify the common council of any changes.³⁵ It is pursuant to that policy that the common council has delegated authority to the administrator to settle most claims (both by and against the city) without prior common council approval.

4. Role of the administrator related to appointments of department heads

While appointments to committees, commissions, and boards are all under the bailiwick of the mayor, the administrator has been granted some input into the appointment of some employees. The common council appoints the following positions after receiving recommendations from both the mayor and the administrator:

City assessor³⁶

Director of human resources and labor relations³⁷

Director of information technology³⁸

Director of planning and development³⁹

Director of public works⁴⁰

Finance Director/Treasurer⁴¹

5. Role of the administrator related to financial matters and the budget

The administrator is charged with reviewing departmental budget requests for the following year; obtaining and setting out the

³³ Code, §2-35

³⁴ Code, §2-901

³⁵ Code, §2-338

³⁶ Code, §2-415

³⁷ Code, §2-420(b)

³⁸ Code, §2-419(b)

³⁹ Code, §86-92

⁴⁰ Code, §2-397(b)

⁴¹ Code, §2-937(a); and note that currently this includes the comptroller role, as discussed above.

format for departmental and special fund receipts, disbursement, and estimates for the following year⁴²; submitting a preliminary budget to the finance committee⁴³; working with committee chairs to consider departmental estimates and budget requests; making budget recommendations to go to the committees overseeing each respective department, office, or fund⁴⁴; and preparing and submitting to the common council a proposed executive budget.⁴⁵

6. Role of the administrator related to employee and labor relations

The administrator is charged with maintaining the city's employee classification and compensation program.⁴⁶ This includes budgetary authority,⁴⁷ annual reviews of the table of organization⁴⁸, authority to approve mid-year-changes to the table of organization without common council approval,⁴⁹ and authority to approve modifications (including addition and deletions of positions) that do not require budgetary changes without common council approval.⁵⁰

The administrator must approve any substantive job description changes and salary grade changes.⁵¹ He or she also must approve paying any new hires at an initial rate greater than the midpoint of the wage or salary range for the position (but no higher than the top of said range.)⁵²

The administrator has an important role in dealing with temporary vacancies in job positions. When there is a temporary vacancy (between two weeks and six months) in a non-represented position, the administrator receives recommendations about how to fill those positions with subordinate employees, and has the authority to act on them.⁵³ He or she must then determine within six months of the vacancy beginning whether the opening shall remain or whether the table of organization needs changing. Unless it results in a change in the budget, he or she can

⁴² Code, §2-902(a)

⁴³ Code, §2-902(b)

⁴⁴ Code, §2-902(c)

⁴⁵ Code, §2-904

⁴⁶ Code, §82-1(a)

⁴⁷ Code, §82-1(b)(2)

⁴⁸ Code, §82-1(b)(4)

⁴⁹ *Ibid.*, see also Code, §82-24(b)

⁵⁰ Code, §82-1(b)(5)

⁵¹ Code, §82-66

⁵² Code, §82-62

⁵³ Code, §82-57(a)

implement that change and follow the rules for reclassifying the employee.⁵⁴

The administrator has authority to abolish certain positions in the interest of economy, lack of work or funds, or other just causes, resulting in the termination of an employee for other than cause.⁵⁵ Whenever that abolishment results in reduction of the number of employees in a class code to a number other than zero, the administrator has authority to consider factors to determine who is laid off, except when collective bargaining agreements control the determination.⁵⁶

The administrator has the authority to approve paid training leave of three weeks or less in a given year without common council approval, and must recommend to the finance and personnel committee any paid training leave of more than three weeks (with a maximum of 12 weeks in a calendar year.)⁵⁷ He or she must also recommend to the common council any "special leave" for attendance at extended courses at recognized universities or colleges.⁵⁸ The administrator may authorize leaves of absence without pay for up to three months in a calendar year without approval by the common council.⁵⁹

7. Role of the administrator related to the senior center

The administrator has the authority to establish and direct policy for the senior center, develop a mission statement, establish goals, be involved in the selection of the supervisor (but not, interestingly, the joint authority to appoint, which rests solely with the mayor), and to establish bylaws for the center.⁶⁰ The administrator may also set evening, Friday, and weekend hours for the center.⁶¹ The administrator oversees the management and operation as well as the budget and financial activities of the senior, with input from the senior activity center commission.⁶² The administrator is required to report annually to the common council on the status of the management

⁵⁴ Code, §82-57(b)

⁵⁵ Code, §82-25

⁵⁶ *Ibid.*

⁵⁷ Code, §82-93

⁵⁸ Code, §82-96

⁵⁹ Code, §82-92

⁶⁰ Code, §2-730(a)

⁶¹ Code, §2-730(b)

⁶² Code, §2-730(c) and (d)

and operation of the senior center⁶³ and shall encourage and promote gifts and donations to the senior center.⁶⁴

8. Other miscellaneous duties and authorities of the administrator

The administrator has the authority to set the normal working hours for city hall, though he or she must provide reasonable notice of any changes.⁶⁵

The administrator is the legal custodian of his or her records, as well as the records of his or her department.⁶⁶

The administrator has general authority to ask for advice from non-residents of the city had having them participate on a team of employees or persons with special expertise for the purpose of advising the administrator on issues over which he or she makes reports or recommendations to the mayor or common council.⁶⁷ Note that the mayor has similar authority, though the purposes may be broader. Note also that none of this necessarily absolves the members of those advisory panels from following public meeting or open records statutes—those issues would be determined on a case-by-case basis.

The administrator has the duty to post all city-owned, occupied, or controlled buildings as places where the carrying of a weapon or firearm is prohibited. However, he or she also has the authority to determine certain building or portions of building should not be so posted, keep a record of all such places, and report them to the common council as soon as he or she determines to remove the posting.⁶⁸

The administrator has the right to object to the issuance of commercial quadricycle licenses before they are issued by the clerk. The clerk must take such objections into account, but retains the authority to make the final decision.⁶⁹

⁶³ Code, §2-730(e)

⁶⁴ Code, §2-730(f)

⁶⁵ Code, §2-221

⁶⁶ Code, §2-838

⁶⁷ Code, §2-428

⁶⁸ Code, §70-251(c)(2)

⁶⁹ Code, §130-141(d)

C. Other officials with statutory authority

Several other officials are named city officials and granted specific authority in cities.

1. Alderpersons

Alderpersons, along with the mayor make up the common council. However, as individuals they have no authority. Except for the powers of the mayor noted above, all of the power of the common council must be exercised by the common council as a whole. Individual alders have no authority to do anything in particular. That said, committee chairs do have inherent authority to run their committees pursuant to the rules of order. This includes control of the agenda, though just as with the mayor, there are ways to bypass a recalcitrant committee chair that refuses to deal with a matter referred to his or her committee.

2. Clerk

The clerk has a lengthy list of duties in the statutes and city ordinances. Like many of the officers of the city, the duties of the position go far beyond the actual authority to take individual action. However, the clerk, like the other officers other than alders, does have some limited authority. For the clerk, that includes the power to countersign all ordinances and resolutions adopted by the common council, to administer oaths and affirmations, to correct minor errors in common council documents, to create a consent agenda for common council meetings and decide which items go on that consent agenda, to draft and countersign certain financial payments, to issue some licenses, and to appoint a deputy clerk.⁷⁰

3. Treasurer and Comptroller

The offices of treasurer and comptroller are separate offices in state statutes. However, those roles are commonly merged. (In fact in smaller Wisconsin cities, these roles are also merged with the role of the clerk.)

The treasurer collects and deposits funds, keeps accounts, makes reports to common council, must execute and file an official bond, and may appoint a deputy.⁷¹ The comptroller has additional statutory duties related to finances, contracts, claims, and

⁷⁰ Wis. Stat. §62.09(11)

⁷¹ Wis. Stat. §62.09(9)

sign contracts where funds have been provided to pay the liability of the contract.⁷²

It may be worth noting that pursuant to statute, it is the comptroller who has the authority to direct and approve all disbursements.⁷³ As such, the comptroller is the person with the authority under state law to issue checks and wire transfers, and does not require additional authority from another. This was the case when the comptroller role was separate from the chief administrative officer/finance director, and remains the case today with regard to the administrator, though the comptroller also has the authority to appoint a deputy, and there is no reason the administrator could not also be the deputy comptroller.

In Sheboygan, the role of both the treasurer and the comptroller is currently filled by the finance director.⁷⁴

4. Assessor

The assessor, who must be certified by the Department of Revenue, is responsible for all appraisal and assessment services to the City.⁷⁵ Cities may appoint a corporation or an independent contractor as the assessor.⁷⁶

5. City Attorney

The city attorney is responsible for all legal business of the city and must give written legal opinions when requested by city officers, which must be kept on file by the clerk. The attorney drafts all ordinances, bonds, and instruments. He or she also has access to and examines tax and assessment rolls and proceedings. He or she may appoint an assistant and may employ and compensate special counsel as needed. As the person in charge of the legal business, all legal matters of the city must pass through his or her office—departments may not hire their own counsel, though they may work with the city attorney to have him or her hire outside counsel when appropriate. The city attorney has authority to make non-policy determinations related to litigation—for example, while the attorney cannot approve global settlements that require funds, he or she can make decisions on the fly in court, choose outside counsel, and enter

⁷² Wis. Stat. §62.09(10)

⁷³ Wis. Stat. §62.09(10)(c)

⁷⁴ Code, §2-937(a) and (c)

⁷⁵ Wis. Stat. §62.09(1)(a)

⁷⁶ Wis. Stat. §62.09(1)(c)

into agreements related to how to conduct the legal business of the city.⁷⁷

6. Police and Fire Chiefs

The police chief and fire chief are designated officers appointed by the police and fire commission. The fire chief has no specific statutory duties, though the police chief does have duties related to reporting.⁷⁸ However, both serve under the direction of the mayor and must obey all lawful written orders of the mayor or the common council.

7. Constable

While rare, the office of constable is available to cities that have not abolished the position.⁷⁹ It is not clear whether Sheboygan ever abolished the position officially. However, the powers of constables (mostly related to service of process and dealing with disorderly or intoxicated people) have been granted to police officers and the police chief.⁸⁰

8. Other positions with authority

The Municipal Code creates several other specific positions within the City, most of whom are considered city department heads. Appointment to some is a joint role of the mayor and administrator; others may have other ways of being appointed. While outside the scope of this memo, it should be noted that there are some powers delegated by the common council to those other positions. While the mayor and the administrator may have some role in overseeing the work of those employees, the delegated powers set out in the code belong to them and not to others.

III. Open Questions

There are a few potential conflicts between the administrator's authority and the mayor's authority. Some of them are discussed above, others are set forth in the following section. This is by no means an exhaustive list of issues.

⁷⁷ Wis. Stat. §62.09(12)

⁷⁸ Wis. Stat. §62.09(13)

⁷⁹ Wis. Stat. §62.09(15)

⁸⁰ Code, §54-102

A. Appointing department heads

The mayor and the administrator have joint authority to recommend appointment of people to many department head positions. There is no clear path should the mayor and administrator disagree on who to appoint. On the one hand, the mayor controls the agenda. On the other, as the representative of the common council, the administrator certainly has the authority to present his or her opinion. There are likely procedural methods using common council rules to deal with this issue should it ever arise. But even common council procedural rules cannot prevent gridlock in case of a divided common council.

B. Budget preparation

The common council requires the administrator to prepare and submit a budget. In the past, there was a question as to whether that is properly the mayor's role, and a former mayor attempted to push an alternate mayoral budget. While the statutes do not specifically require or authorize the mayor to prepare and submit a budget, the mayor's executive authority would enable him or her to manage that budget. However, since passing a budget and setting budget policy is certainly within the purview of the common council, I am convinced that this power is properly delegated to the administrator.

C. Personnel matters

The administrator was recently granted significant authority over personnel regulations and benefits.⁸¹ At the time of said grant, the administrator, the human resources director, and the common council were all informed by legal counsel that the broad grant could potentially result in some level of conflict with the mayor's role as chief executive officer of the city and his or her authority to ensure that all city officers and employees are discharging their duties. The common council made the policy decision to go ahead with what an activist mayor could have perceived as a partial encroachment on his or her authority. That said, many of the duties set out in Chapter 82 could be said to be policy-related, not executive in nature. Because there is a wide range of authority granted in this chapter, potential conflicts may need to be dealt with on a case-by-case basis. However, it is clear that the mayor likely has statutory authority to insist on being involved in performance reviews of

⁸¹ See chapter 82, Sheboygan Municipal Code.

department heads and reviews with the elected officials within the executive branch (city clerk and city attorney.)

D. Senior Activity Center

While the common council has delegated authority to the administrator to direct and supervise management of the senior center and oversee the budget and financial activities of the senior center, the code does not carefully distinguish between policy and legislative matters, which are the purview of the common council and can thereby be delegated to the administrator, and those related to the day-to-day activities, execution of policies, and oversight of employees. Additionally, since the mayor has the authority to appoint the members of the senior activities center commission (subject to an up-or-down vote by the common council); the mayor could exercise some level of control through his or her appointees.

CITY OF SHEBOYGAN
Tuesday, July 6, 2021
ALDERPERSON ORIENTATION

Facilitators: City Administrator Todd Wolf, Mayor Ryan Sorenson, City Attorney Chuck Adams, City Clerk Meredith DeBruin, Director of Human Resources and Labor Relations Vicky Schneider, Assistant to the City Administrator Carrie Arenz, Director of Planning & Development Chad Pelishek

1. Opening of Meeting

- 1.1 Roll Call
- 1.2 Pledge of Allegiance

2. Review of Government Functions and Overview

- 2.1 Government Functions and Overview Presentation
 - a. **Basic Form of Government & Roles** – Chuck
 - b. **Laws, Codes, Policies** – Chuck
 - c. **Personnel policies for elected officials** – Vicky
 - d. **Neighborhood Resources Packet** – Chad

Materials provided: Memo re: Powers of Mayor, Administrator, and Common Council
Pyramid Diagram
FAQ re: Ordinances & Resolutions
Neighborhood Resources Packet

3. Review of Common Council Information

- 3.1 Common Council Information Presentation
 - a. **How business is transacted/rules of order** – Meredith and Chuck
 - b. **BoardDocs** – Meredith
 - c. **Basic open meetings / open records primer** – Chuck
 - d. **Contracts, claims, & payments** - Chuck
 - e. **Constituent services** – responding to constituent calls and email, attending neighborhood association meetings, etc. – Ryan, Todd
 - f. **Ethics Code** – Chuck

Materials provided: Handbook for Wisconsin Municipal Officials
Generally Used Rules of Order, Procedure and Conduct
Open Meetings PowerPoint
Handout for Contracts, Claims, & Payments
Ethics Code (updated)

(Some things Roberta asked for that I didn't include are highlighted on the next page)

Orientation for Sheboygan Common Council Representatives

Tactical:

Badges, building key, photos, business cards, payroll, e-mail accounts, phone numbers

Care and maintenance of chrome book, mouse, headset

Signing on to virtual meetings

Finding documents and agendas

Managing e-mails

Internal orientation:

Annual reports – 2020 – distribute from all departments

Departments: tour as a group

- Police
- Fire
- Water utility
- Public works
- Sewage treatment

Department head visits (groups?):

- City attorney
- Development
- Personnel

The well prepared representative:

Committee vs. Council meetings

Types of documents: Resolutions, RO, RC, Agendas, Minutes, Staff comments

- Roberts rules, council and committee protocol
- Checking e-mail

Constituent services:

- Responding to complaints and requests
- Attending Neighborhood Association meetings

Other:

- League of Municipalities
- Unsolicited e-mails
- Speaking on behalf of...ethics

City of Sheboygan

Common Council Handbook

"I think local government is the hardest job in the country because it is one thing to be at the federal level where you can talk grand thoughts, talk about things in policy terms, and encourage legislation that channels your decision making into certain goals; it is another thing to pick up the garbage, to plow the snow, to sweep the street, to make sure your signal lights are working. Local government is really hard. That is where the rubber meets the road, and it is much harder than federal government." -- Pauline A. Schneider

Preface

This manual is intended to provide alderpersons, committee and board members, city employees, and members of the public with general rules of procedure and decorum during all formal meetings. These rules are intended for easy reference only and do not supersede current city ordinances or resolutions. The City of Sheboygan follows the rules of parliamentary procedure set forth in Robert's Rules of Order, Newly Revised, in all cases in which they are applicable and not inconsistent with the ordinances and regulations of the City.

The mayor (who chairs council meetings) and committee chairpersons set the tone and structure of the meetings over which they preside. That tone and structure may vary from individual to individual. The mayor and chairperson are responsible for ensuring that debate and discussion is conducted appropriately, professionally and within the rules of order. They enforce the observance of order and proper decorum between the entire membership and those present during any meeting. The mayor and chairpersons have discretionary authority to excuse non-members from the meeting whenever any disturbance or disorderly conduct occurs.

All alderpersons, commissioners, committee members, board members, officers and those in attendance at all meetings shall conform their conduct to the rules and expectations of this manual.

I. COMMON COUNCIL PROCEEDINGS

A. Generally Used Rules of Order and Procedure

Alders may only act on items posted on the agenda. Alders may not act on items posted for discussion only. Certain items not posted on the agenda may be introduced as “Other Matters Authorized by Law,” but no action may be taken on such matters other than to lie over to the next meeting or be referred to a committee.

The consent agenda deals with matters generally regarded as routine. However, any alder may call a specific document for separate action after the motion is made to approve the agenda. If an alder simply requires clarification about a document in the consent agenda, he or she may simply inquire without calling for separate action.

Any alder may request to pull forward any document out of the order of the agenda.

1. Most Commonly Used Documents

The following are the types of documents upon which the common council generally acts:

Ordinances: Ordinances are the laws of the city. An ordinance may enact new legislation or amend or repeal an existing ordinance.

The proper motion for the passage of an ordinance is: “I move to adopt the ordinance.”

This motion requires a second, is debatable, amendable and generally requires a majority vote, unless otherwise required by law or ordinance. For example, charter ordinances require a two-thirds vote of all members.

Resolutions: The common council conducts general business through resolutions. They are generally less permanent enactments than ordinances. Resolutions may direct or authorize the appropriate city officials to act on matters approved by the common council. Resolutions also may be used to create committees, commissions or boards to assist the common council in conducting its business.

The proper motion for the passage of a resolution is: “I move to adopt the resolution.”

This motion requires a second, is debatable, amendable and generally requires a majority vote, unless otherwise required by law or ordinance. For example, resolutions altering the adopted budget require a two-thirds vote of the entire membership of the common council.

Report of Committees: These documents, generally known as R.C.s, are reports created by committees and then referred to the common council to give recommendations on matters initially referred to them. They often include a recommendation for action or to adopt an ordinance/resolution.

When an R.C. comes to common council, the report should simply be received. However, additional action will generally be needed on the matters referred to the committee. Proper motions related to an R.C. include the following: "I move to receive the R.C. and adopt the ordinance." "I move to receive the R.C. and file the ordinance." "I move to receive the R.C. and approve the licenses." "I move to receive the R.C. and deny the license." Filing an item is to reject it.

These motions require a second, are debatable but not amendable, and require a majority vote.

Report of Officers: These documents, generally known as R.O.s, are reports or recommendations submitted by boards, commissions, or department heads.

The proper motion for acting on an R.O. is: "I move to receive the R.O. and adopt the recommendation" or "I move to receive the R.O. and file the recommendation."

These motions require a second, are debatable but not amendable, and require a majority vote.

Communications: Communications are letters received by the mayor, alderpersons or the city clerk that are submitted to the common council for consideration and placed on an agenda. Not all letters and petitions are placed on an agenda. In fact, most such letters should first be directed to staff members before being submitted to common council, as action can often be taken more quickly and efficiently that way. The mayor, in consultation with the city clerk, determines which matters to place on an agenda.

Once submitted to common council, communications may be referred to a committee, commission, or board. Often, they may also be immediately acted upon during a common council meeting. All communications must be submitted to the city clerk before the deadline for the common council agenda.

A proper motion for acting on a communication is: "I move that the communication be received and filed," or "I move that the communication be referred to committee."

This motion requires a second, is debatable, but not amendable, and requires a majority vote.

Other documents: Often, staff members will prepare attachments, exhibits, or other documents to assist alderpersons in preparing for committee or common council meetings. These are for information only, and not meant for action.

The most common such document is called an "IFC" (Item for Consideration). This standardized document includes information about the fiscal impact of a proposed document, gives some background on the proposal, provides staff input and recommendations, references current law

that may impact the proposal, and gives a recommended action.

IFCs are available with the other documents on the agenda item in “BoardDocs” (the city’s online system for organizing meeting agendas, minutes, and documents.) While an IFC is not something that is approved, received, filed, or debated, it generally contains important information that will assist the common council in making policy decisions.

All documents, whether those being acted upon, or documents attached for information, should be provided to the city clerk by noon on the Wednesday prior to a council meeting so they can be attached in BoardDocs and tracked for open records compliance purposes. All documents being acted upon should also be sent to the City Attorney’s office at least 48 hours prior to the clerk’s Wednesday deadline so that they can be reviewed for legal compliance and form. Similarly, any documents referred to in a resolution or report must also be provided to the city clerk so they can be attached in BoardDocs and tracked. Normally, these documents must be provided prior to the agenda deadline.

2. Most Common Types of Action

The following are the four most common types of actions the common council takes during a meeting:

Adoption - this is favorable action taken by the common council. “Adoption” and “passage” are synonyms

Referral - this action sends a document to a committee, commission or board for deliberation and a recommendation.

Filing - this action dispenses of a document immediately or refers out of committee.

Lying Over - this results when certain documents cannot be passed on the first reading without suspension.

3. Suspending the Rules

The common council operates by a set of operating rules. Some rules are codified by ordinance; such rules must be followed unless the council passes an ordinance changing those rules. (Note, however, that rules codified in this fashion may contain special provisions to allow those rules to be temporarily lifted. Most rules, however, including those in this handbook and those in Robert’s Rules of Order, may be suspended.

Suspension of the rules can happen in any number of circumstances. The most common reason for suspension is to allow the common council to act immediately on a resolution, report, or communication, rather than sending it to a committee or requiring it to lay over to the next meeting. A common council member may make a motion to suspend the rules. An appropriate motion is: “Your Honor/Mayor, I request suspension of the rules to allow the resolution to be approved immediately.”

The motion to suspend the rules, per Sec. 2-168, Sheboygan Municipal Code, requires a ¾ vote of the members-elect. In addition, “unless unanimous consent is given, the vote on suspension shall be by call of the roll.” The Mayor may determine unanimous consent by asking if any member of the common council has an objection to suspension, and declaring the rule suspended if there is no objection.

4. Calling the Vote

Voice Vote - all actions other than those requiring a roll call vote may be adopted or passed by voice vote.

Roll Call Vote - a roll call vote is required on the adoption of all ordinances, resolutions, report of committees, report of officers and other documents assessing or levying taxes, appropriating or disbursing funds, actions creating a liability or charge against the city or discharging or commuting a claim or demand against the city. A roll call vote is required on confirmation of appointments. It is also required whenever the common council or a committee votes to go into and come out of closed sessions.

A roll call vote may be called for by the mayor at his discretion or upon the request of any member of the common council.

An appropriate request for a roll call by a member of the common council is: “Your Honor/Mayor, I request a roll call vote.”

This is not a motion and therefore does not require a second, debate or vote.

5. Most Commonly Used Motions

| MOTION | REQUIRES SECOND | DEBATABLE | AMENDABLE | VOTE REQUIRED |
|-------------------------------|------------------------|------------------|------------------|---------------------------|
| Main Motion | Yes | Yes | Yes | Majority |
| Motion to Reconsider | Yes | Yes | No | Majority |
| Motion to Rescind | Yes | Yes | Yes | Majority (with notice) |
| Motion to Amend | Yes | Yes | No | Majority |
| Motion to Substitute | Yes | Yes | Yes | Majority |
| Motion to Amend the Amendment | Yes | Yes | No | Majority |
| Motion to Refer to Committee | Yes | Yes | Yes | Majority |
| Motion to Hold | Yes | Yes | Yes | Majority |
| Motion to Call the Question | Yes | No | No | 2/3 |
| Motion to Suspend the Rules | Yes | No | No | * 3/4 |
| Motion to Divide the Question | Yes | No | No | Majority |
| Motion to Open the Floor | Yes | Yes | Yes | Majority |
| Point of Order | No | No | No | None |
| Motion to Recess | Yes | No | Yes | Majority |
| Motion to Adjourn | Yes | No | Yes | Majority |

6. Other Common Rules

An alderman may appear and vote at a common council meeting remotely (i.e., by telephone, video conference, etc.), if notice of remote attendance appears on the agenda. A member who is not physically present counts towards a quorum. However, a member may not participate or vote on any matter that requires the visual assessment of a witness's demeanor if the member is unable to make such a visual assessment, nor may a member vote on any matter that requires the visual assessment of physical evidence or exhibits that have not been previously reviewed by the member. (Sec. 2-138, Sheboygan Municipal Code.) Because ensuring security is difficult with remote attendance, remote attendance has typically not been permitted during closed sessions. However, in cases where remote attendance may be necessary due to pandemic or other health situations and where the use of particularized guidelines help ensure security, such permission may be granted by the mayor, in consultation with the City Clerk, City Attorney, and other necessary staff

Alderspersons shall speak only twice on matters being debated or discussed during a common council meeting except upon leave of the common council. (See Sec. 2-184, Sheboygan Municipal Code.

Privilege of the floor during common council meetings is extended to the mayor, the city clerk, the city attorney, the city administrator, the chief of police or such other police officer in attendance, the finance director/treasurer, members of the department of engineering and public works, the director of planning and development, and members of the media who are confining themselves to their professional duty. No other person is allowed on the council floor except upon the invitation of the mayor or common council.

Only those persons who have privilege of the floor may address the common council. All others may address the common council pursuant to a motion to open the floor.

An appropriate request to allow a person who has privilege of the floor to address the common council is: "Your Honor/Mayor, I request that Mr./Mrs. (state name) address the council." Only the mayor may call the person forward.

An appropriate motion to allow persons who do not have privilege of the floor is: "Your Honor/Mayor, I move to open the floor to (state name)."

Alderspersons may address those persons who have privilege of the floor or to whom the floor has been open with the consent of the mayor. Otherwise, alderspersons may only address the mayor. Thus, when speaking, they should refrain from addressing other alderspersons, staff members, or the audience, and should face the mayor.

An appropriate request to address those persons is: "Your Honor/Mayor, may I address Mr./Ms. (state name)?"

An alderperson may not engage in debate or become confrontational with persons who have privilege of the floor or to whom the floor has been open. At all other times, alderspersons must address the mayor or other presiding officer, not each other or the public.

A motion to amend or a motion to amend the amendment that will totally alter the nature of the original ordinance or resolution is considered out of order as not being "germane." To be germane, an amendment must in some way involve the same question that is raised by the motion to which it is applied. The mayor or presiding officer of the common council shall rule in the first instance as to the admissibility of the amendment in question.

No alderperson may cross the floor or leave the council chamber while the mayor or presiding officer is addressing the common council or submitting a question. (See Sec. 2-180, Sheboygan Municipal Code.)

When an alderperson is called to order, he or she shall not speak except in explanation until it shall have been determined that the alderperson is in order. (See Sec. 2-183, Sheboygan Municipal Code.)

Any action under consideration by the common council, at the request of three alderpersons, shall be deferred to the next common council meeting to be held no sooner than one week following. The same action may not be deferred a second time or laid over. (See Sec. 2-81, Sheboygan Municipal Code.)

Whenever any disturbance or disorderly conduct occurs in the council chambers, or rooms or halls adjacent to the council chambers, the mayor or presiding officer has the power, with the aid of the chief of police or police officers in attendance, to cause the chambers, rooms or halls to be cleared of all persons except the alderpersons or officers of the common council. (See Sec. 2-39(a), Sheboygan Municipal Code.)

B. General Rules of Conduct

Alderpersons and members of committees, commissions, and boards shall conduct themselves in a professional and respectful manner while representing the city.

Alderpersons and members of committees, commissions, and boards should wait to be recognized by the mayor or the chairperson before speaking. Upon being recognized, an appropriate preface to your comments is: "Thank you your Honor/Mayor" or "Thank you Mr. Chairman" or "Thank you Madam Chair."

Alderpersons shall not make disparaging statements during common council meetings about each other, elected officials, or others belonging to a different committee, commission, board, or staff.

All personal electronic devices that make noise, including but not limited to smart phones, tablets, etc., or anything else that makes noise, should be turned off while Council is in session so as not to cause a disturbance or distraction.

C. Location and Availability

All Common Council meetings (including Committee of the Whole meetings) shall take place in the Common Council Chambers. Exceptions may be made for closed sessions (Room 305 is designed for such purposes), emergency meetings, and special meetings called for specific purposes where a different location promotes efficiency while preserving public access.

During times of pandemic or other unusual situations, all meetings shall be conducted in a manner that follows the rules and guidelines of federal, state, and county public health and emergency agencies. This includes requiring limits on the number of people permitted in Common Council Chambers, providing for distancing between attendees and participants, and encouraging the use of overflow meeting rooms and remote forms of attendance.

Every common council agenda shall, in addition to the required notice related to accessibility for differently-abled persons, provide a notice that persons other than council members who wish to participate in a meeting by speaking at the public forum shall provide notice to the clerk at least 24 hours before the meeting so that the person may be provided a remote link (such as Zoom or GoToMeeting) for that purpose.

Whenever the Mayor or City Clerk anticipates a meeting may be heavily attended and there is a chance more people may attend than can be safely contained in common council chambers, they shall make arrangements to provide for overflow rooms where members of the public may watch or otherwise participate in the proceedings.

Section 2-138 of the Municipal Code governs remote attendance at meetings by members of city governmental bodies. Alders who wish to attend a meeting remotely shall inform the City Clerk at least three business days prior to any meeting so that their remote attendance may be included in the meeting notice, as required by Section 2-138(e). The City Clerk may establish a procedure whereby an alder may request to be placed on a list of officials who will be noted as a remote attendee for all meetings until making a subsequent request to be removed from said list.

All Common Council meetings, except closed sessions, emergency meetings, and special meetings called for a specific purpose taking place in a different location shall be broadcast live on WSCS and livestreamed via the WSCS website. All Common Council meetings, except closed sessions, shall be recorded and be made available to be viewed at a later date on the WSCS website. Retention of recordings shall be pursuant to the City's document retention schedule. Nothing in this paragraph shall be deemed to prevent City staff from causing the livestream and/or recordings to be available at additional sites, such as the city's website and social media feeds.

II. COMMISSIONS, COMMITTEES, AND BOARD PROCEEDINGS

The Common Council has three standing committees: the Finance and Personnel Committee; the Public Works Committee; and the Licensing, Hearings, and Public Safety Committee. All committee members are appointed by the mayor and confirmed by the common council.

The Committee of the Whole is comprised of all the alderpersons. The mayor is not a member of the committee. The meetings are called as needed and serve the purpose of deliberation. The Committee of the Whole does not approve or disapprove of any matter before it; it simply makes a recommendation to the common council.

The common council has the power to create special committees on motion or by resolution as the common council deems appropriate.

Any standing committee or special committee may appoint a subcommittee from its membership.

A member of the City Attorney's office will generally be at all standing committee members. Members of any special committees, including the Committee of the Whole, should contact the City Attorney if they believe the presence of legal counsel at such meetings would be helpful.

A. Generally Used Rules of Order and Procedure

Only the items posted on the agenda may be acted on or discussed. Any items posted for discussion only may not be acted on.

Chairpersons of committees are responsible for preparing the agenda for all meetings and arranging for minutes to be taken and forwarded to the city clerk. Members may make a request for an item to be placed on the agenda. All documents for committee meetings should be provided to the clerk at least 24 hours prior to the deadline for the agenda (72 hours in the case of direct referrals.)

A quorum must be present in order for the meeting to proceed and the chairperson set the tone for the meeting. A quorum for committees, commissions, and boards is a majority of the full membership. Remote attendance is permitted under the same rules as for the common council (see Item I. A. 5, above.)

Members may speak only when recognized by the chairperson. There is no limitation on how many times a member may speak unless the chairperson sets one. Members may not interrupt the chairperson, other members, or the public who are speaking.

Items on the agenda may be pulled forward at the request of a member with the consent of the chairperson.

B. Most Commonly Used Documents

Every committee, commission, and board is unique. Many of them handle documents that are pertinent to them or have been referred to them by the common council.

The following documents are received or acted upon by committees, commissions, and boards, and need to be included with the agenda:

Matters referred from common council – matters referred from common council, directly or otherwise, (for example, R.O.s, resolutions, or ordinances) are sent to committee for recommendation and referral back to the common council on the committee’s recommendation. The proper motion for matters referred from common council is to recommend that the common council receive and file reports or communications and recommend that the common council adopt resolutions and ordinances.

A majority vote against a recommendation to adopt a resolution or an ordinance is deemed to be a recommendation not to so adopt. In case of a tie vote (or a vote with no clear majority due to abstentions), a committee vote fails, but a separate motion would be needed to refer the item back to the common council. An appropriate motion in such a situation would be to refer the document back to council with no recommendation.

Reports – reports by department heads or other officials are generally informative. The proper motion for reports not being referred back to the common council is to receive and file the report. Reports may also be referred.

Requests – requests are generally made by the public and in some instances city employees. Requests may be granted, denied, held or referred.

Communications – communications vary and they generally are filed. In some instances they may be referred, held or acted upon.

Presentations – presentations are generally for information only; though action may be requested.

IFCs – staff members often prepare an “IFC” (Item for Consideration) for items on a committee agenda. This document includes information about the fiscal impact of a proposed ordinance, resolution, or other document for action; gives some background on the proposal; provides staff input and recommendations; references any current law that impacts the proposal; and gives a recommended action. It is for information, not action, although action may be requested.

C. Location and Availability

All Commission, Committee, and Board meetings shall take place in an unlocked location directly accessible to the public. Exceptions may be made for meetings where the only action will be to

convene in closed session, with adjournment taking place in closed session.

During times of pandemic or other unusual situations, all meetings shall be conducted in a manner that follows the rules and guidelines of federal, state, and county public health and emergency agencies. This includes requiring limits on the number of people permitted in the meeting room, providing for distancing between attendees and participants, and encouraging the use of overflow meeting rooms and remote forms of attendance.

Every commission, committee, and board agenda shall, in addition to the required notice related to accessibility for differently-abled persons, provide a notice that persons other than commission, committee, and board members who wish to participate in a meeting shall provide notice to the clerk at least 24 hours before the meeting so that the person may be provided a remote link (such as Zoom or GoToMeeting) for that purpose.

Whenever the chair of a commission, committee, or board anticipates a meeting may be heavily attended and there is a chance more people may attend than can be safely contained in the meeting room, they shall make arrangements to either hold the meeting in a larger room or to provide for overflow rooms where members of the public may watch or otherwise participate in the proceedings.

Section 2-138 of the Municipal Code governs remote attendance at meetings by members of city governmental bodies. Commission, committee, and board members who wish to attend a meeting remotely shall inform the City Clerk at least three business days prior to any meeting so that their remote attendance may be included in the meeting notice, as required by Section 2-138(e). The City Clerk may establish a procedure whereby an such a member may request to be placed on a list of officials who will be noted as a remote attender for all meetings until making a subsequent request to be removed from said list.

All meetings of standing council committees (i.e., Finance & Personnel; Licensing, Hearings, and Public Safety; and Public Works) except closed sessions, shall be video recorded and be made available to be viewed at a later date on the WSCS website. Retention of recordings shall be pursuant to the City's document retention schedule. Nothing in this paragraph shall be deemed to prevent City staff from livestreaming or causing recordings to be available at additional sites, such as the city's website and social media feeds.

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III. RULES FOR THE PUBLIC

All personal electronic devices that make noise, including but not limited to smart phones, tablets, etc., or anything else that makes noise, should be turned off while the common council is in session so as not to cause a disturbance or distraction.

A. Public Forum

The common council welcomes community input during its meetings.

The public present at the meeting is required to remain silent during the common council meeting. The mayor sets the tone for the common council meetings and enforces all the rules. The mayor may call anyone out of order. In order to preserve order, the mayor may also have anyone who is out of order escorted out of the council chambers.

In order to speak before the common council at the public forum, the public must first make a request to the city clerk. Such request shall be made no later than noon on the day of the common council meeting. Up to five persons are allowed to speak for up to five minutes during the public forum. If more than five people sign up, preference shall be given to city residents and persons who pay property taxes to the City on real or personal property. Comments shall be limited to discussion of items on the agenda. Any alderman may move to open the floor for one minute additional time. The common council has a full agenda to follow but may grant a person additional time to speak by a majority vote.

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Basic Rules

1. Before speaking, clearly state your name and address.
2. Speak clearly, do not swear or use foul language.
3. Address comments to alderpersons, committee, etc.
4. Limit comments to matters on the meeting agenda.
5. No advertising, self-promotion, or electioneering.
6. Do not be argumentative with presenters or department heads or representatives.
7. Do not personally attack or criticize the mayor, alderpersons, city officials, department heads, elected officials or staff.
8. Do not personally attack or criticize members of the public present at the meeting.
9. Do not personally attack any member of the public (whether or not present), board/committee members, employees, and the mayor.
10. Maintain your composure and show respect to the chairperson and respective committee members.

The common council receives citizen input and generally does not respond or debate issues with the public during the meeting. However, during a period of public comment, the open meeting law allows a governmental body to discuss any matter raised by the public. (See Sec. 19.83(2), Wis. Stats.) If there is a need for a response or answer to a question or concern, please make a request during your statement and the appropriate city official or employee will get back to you within a reasonable time.

B. Committees, Commissions and Boards

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The various city committees, commissions and boards welcome community input. When communications are received by the city and referred to a committee, commission or board, the respective chairperson may invite individuals to attend the meeting. The opportunity to speak is strictly up to the discretion of the chairperson.

Persons wishing to speak during these meetings should raise their hand and be recognized by the chairperson before speaking. There is no limitation on the amount of time an individual has to speak but the chairperson may limit the time.

Everyone is required to remain quiet during the meeting. The chairperson may rule one out of order and may have one escorted out if necessary.

Basic Rules

1. Before speaking, clearly state your name and address.
2. Speak clearly, do not swear or use foul language.
3. Address comments to alderpersons, committee, etc.
4. Limit comments to matters on the meeting agenda.
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7. Do not personally attack or criticize the mayor, alderpersons, city officials, department heads, elected officials or staff.
8. Do not personally attack or criticize members of the public present at the meeting.
9. Do not personally attack any member of the public (whether or not present), board/committee members, employees, and the mayor.
10. Maintain your composure and show respect to the mayor and alderpersons.

Ordinances & Resolutions FAQ 3 (LWM)

What is the difference between an ordinance and a resolution and what determines whether an ordinance or resolution should be used?

Generally, an ordinance is a local law of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform and permanent rules of conduct relating to the corporate powers of the municipality. A simple or ordinary ordinance, as opposed to a charter ordinance, is used to effect most local legislative actions. State statutes sometimes require exercise of city or village powers by enactment of ordinances. Some examples include sec. 61.20(4) (changing number of village trustees), sec. 61.32 (changing salaries of village president and trustees), sec. 62.08(1) (altering aldermanic districts), sec. 62.09(6)(a) (changing salary of mayor and aldermen), and sec. 62.13(2) (cities under 4,000 adopting or repealing police and fire commission law).

In contrast, resolutions are generally less permanent enactments than ordinances. Resolutions commonly deal with matters of a special or temporary character. A resolution ordinarily denotes something less solemn or formal than, or not rising to the dignity of, an ordinance. They seldom if ever contain penalties and are the most common form of legislation employed by governing bodies to deal with special matters not affecting the general public such as granting special privileges, expressing opinions or communicating with other governmental units or departments or agencies of the municipality. Resolutions are generally brought to the council or board floor in writing. However, oral resolutions confirming committee reports or administrative actions are not uncommon. Certain state statutes specify exercise of city or village powers by resolution. Some examples include sec. 61.189(1), Stats. (changing from a village to a city), sec. 62.15(5), Stats. (rejecting bids on public construction), sec. 66.1105(4)(gm), Stats. (creating a tax incremental district) and sec. 66.0703(8), Stats. (levying special assessments).

Sometimes the decision regarding whether to use a resolution or ordinance will be governed by state or local law. As the above examples show, specific statutes may exist which require that action be taken by ordinance or resolution. But often the statutes do not specify a required form and then a local governing body has wide latitude in determining the form that its legislative or administrative actions take, and exercises this discretion on the basis of the desired permanency and impact of the action.

In general, the governing body should use an ordinary ordinance when amending, repealing or modifying an existing ordinance; or required by state law; or the act is of general application and intended to be reasonably permanent; or public notice (publication and inclusion in the local code of ordinances or ordinance book) is deemed desirable.

A resolution should be used when amending, repealing or modifying an existing resolution; or required by state law; or the action is temporary in nature, or not of general public concern; or the act is an order or directive relating primarily to internal municipal governmental affairs; or the act confirms previous action of a municipal officer or body not properly authorized by the governing body; or the act is an order or directive requiring a specified officer, agency or person to comply therewith.

CONTRACTS, CLAIMS, & PAYMENTS

Authority to Pay Claims/Bills

Resolution 64-17-18

BE IT RESOLVED:

That the City Administrator or his/her designee is hereby authorized to negotiate and settle liability insurance claims in an amount not to exceed \$50,000, without prior approval of the Finance and Personnel Committee and Common Council, in instances where, in consultation with the City Attorney's Office and Finance Department, the City Administrator or his/her designee determines it to be in the best interest of the City to settle said claim(s) in an expeditious manner.

BE IT FURTHER RESOLVED:

That the City Administrator or his/her designee is appointed, authorized and empowered to act to disallow claims made against the City of \$50,000 or less in accordance with the procedures set forth in Section 893.80 Wis. Stats in instances where, in consultation with the City Attorney's Office and Finance Department, the City Administrator or his/her designee determines it to be in the best interest of the City to deny said claim(s) in an expeditious manner.

Resolution 66-20-21

BE IT RESOLVED:

That the City Administrator or his/her designee is hereby authorized to negotiate and settle claims made by the City without prior approval of the Finance and Personnel Committee and Common Council in instances where:

- (1) in consultation with the City Attorney's Office and the Finance Department, the City Administrator or his/her designee determines it to be in the best interest of the City to settle said claim(s) in an expeditious manner; and
- (2) the total amount compromised for a given claim is \$50,000 or less.

BE IT FURTHER RESOLVED:

That those claims settled under this authorization shall be reported promptly to the Finance and Personnel Committee.

Authority to Enter into Contract

Contracts FAQ 17 (LWM)

Do municipal officers, such as the mayor, city attorney, chief of police or municipal employees such as administrator, director of public works or village engineer have authority, without approval of the governing body, to enter into a contract binding the municipality?

No. The contract authority of a municipality is vested in its governing body and only the governing body or an officer or employee authorized by it to enter into a contract on behalf of the municipality, may enter into a contract binding the municipality. See *Kocinski v. Home Insurance Company*, 154 Wis.2d 621, 452 N.W.2d 360 (1990) (city attorney cannot make valid contract on behalf of city unless he has prior authority from the common council to do so); *Probst v. City of Menasha*, 245 Wis. 90, 95, 13 N.W.2d 504 (1944) (city engineer lacked authority to modify city construction contract); 10 MCQUILLIN MUNICIPAL CORPORATIONS, sec. 29.15 (3d ed. 1999); League Legal Opinion Contracts 361. Accordingly, a municipal official or employee cannot bind a municipality to an agreement or other contract without the express authorization of the municipal governing body.

Public Construction

Contracts FAQ 1 (LWM)

When must competitive bidding be followed?

In general, state law requires cities and villages to competitively bid “public construction,” the estimated cost of which exceeds \$25,000. If the estimated cost exceeds \$5,000 but is not greater than \$25,000, the municipality must give a class I notice, under Wisconsin Statutes Chapter 985, of the proposed construction before the contract is executed. Wis. Stat. §§ 61.54 (villages), 62.15 (cities).

State law is not the only source of bidding requirements. Bidding requirements may also be imposed by local ordinance or policy, and these authorities must be checked before moving forward with a project to ensure compliance. In addition, when a project involves state or federal funding, municipal officials should check for any competitive bidding requirements linked to that funding.

Contracts FAQ 4 (LWM)

What kinds of municipal contracts don't have to be competitively bid under state law?

State law only requires competitive bidding for municipal contracts involving public construction with an estimated cost exceeding \$25,000. Therefore, contracts that do not involve public *construction* are not subject to the state bid law requirements.

There are many types of municipal contracts that do not involve public construction. These include contracts for the purchase or sale of real estate; contracts for ambulance, refuse pickup, recycling or similar services, and; contracts for the purchase of fire trucks, dump trucks, backhoes, police cars and other general use equipment. They also include contracts for engineering, architect and other professional services even if related to municipal projects. *Aqua-Tech, Inc. v. Como Lake Protection and Rehabilitation District*, 71 Wis.2d 541, 239 N.W.2d 25, 28 (1976).

Contracts FAQ 12 (LWM)

May a municipality give preference to bids submitted by local contractors?

In most cases, the answer will be no. State law now specifically provides that “[e]xcept when necessary to secure federal aid, a political subdivision may not use a bidding method that gives preference based on the geographic location of the bidder or that uses criteria other than the lowest responsible bidder in awarding a contract.” Wis. Stat. sec. 66.0901(1m)(b).