



AGENDA FOR AD HOC COMMITTEE REGARDING REINSTATEMENT OF CITY ADMINISTRATOR POSITION

An Ad Hoc Committee meeting will be held on **Thursday, April 24, 2025 at 5:00 PM**
in the **Council Chambers at City Hall, 819 Superior Avenue, Tomah, WI.**

AGENDA

- A. Call to Order - Pledge of Allegiance - Roll Call.
- B. Election of Chairperson.
- C. Election of Secretary.
- D. Review of minutes establishing ad hoc committee and its purpose.
- E. Review of basic rules for service on governing bodies.
- F. Open discussion/questions with City Treasurer regarding financial impact.
- F. Review of old job descriptions of City Administrator, City Clerk, City Treasurer and Building Inspector/Zoning and current job descriptions of SET Members.
- G. Discussion of pros and cons to reinstatement of City Administrator position.
- H. Determination of what, if any, additional information or action is needed to enable the committee to more fully address the issue before the committee.

ADJOURNMENT

NOTICE: It is possible that a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice. Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Becki Weyer, City Clerk, at 819 Superior Avenue, Tomah, WI 54660.

MINUTES FOR COMMON COUNCIL TUESDAY JULY 16, 2024

A Common Council was held on **Tuesday, July 16, 2024 at 6:30 PM** in the Council Chambers at City Hall, 819 Superior Avenue, Tomah, WI.

Call to Order, Pledge of Allegiance, Roll Call

The meeting was called to order by Mayor Paul Dwyer at 6:30 p.m. Roll call was taken after the Pledge of Allegiance. Present: Paul Dwyer, Travis Scholze, Richard Yarrington, Shawn Zabinski, Nicole Hart (arrived at 6:45 p.m.), Patrick Devine, Nellie Pater, and Dean Peterson. Absent: John Glynn. Also present: Molly Powell, Becki Weyer, Kirk Arity, Tim Adler, Irma Keller, and Pam Buchda. The meeting was available via Zoom and was recorded by Hagen Sports Network. All motions are unanimously approved unless otherwise noted.

ANYONE DESIRING TO APPEAR TO COUNCIL

Eric Devine from 413 Nicholas St appeared in support of the Administrator position being reinstated. Alderperson Zabinski made a public comment that when her constituents call, they should give a name, address, and a phone number and she will not tolerate rudeness on the phone and will hang up if those requirements are not met. Jim Stroh from 1022 Superior Ave appeared to confirm an item on the agenda.

PUBLIC HEARING FOR ADOPTION OF 2024 COMPREHENSIVE PLAN:

Call Public Hearing to Order

The mayor opened the public hearing was opened at 6:36 p.m.

Summary and Background - Comprehensive Plan 2024 Drafts and Information

Benjamin Rohr from Vandewalle and Associates gave a presentation about the history of the update to the Comprehensive plan. The city has been working with Vandewalle and Associates for more than six months to obtain resident’s opinions which are reflected in the updated plan.

Request for Public Comment

The mayor asked if anyone would like to give a public comment. Theresa Devine from 413 Nicolas Street appeared to ask when the survey was put out to the public and was concerned it was not widely publicized. Information was published in the newspaper, on the city’s website, and on social media. No one else desired to give a public comment.

Close Public Hearing

The mayor closed the public hearing at 6:52 p.m.

Ordinance Adopting the 2024 Comprehensive Plan - First Reading, Second Reading, Adoption

Motion by Yarrington, second by Scholze, to waive the first verbatim reading of the ordinance adopting the 2024 Comprehensive Plan. Motion carried.

Motion by Scholze, second by Zabinski, to waive the second verbatim reading of the ordinance adopting the 2024 Comprehensive Plan. Motion carried.

Motion by Scholze, second by Zabinski, to adopt the ordinance adopting the 2024 Comprehensive Plan. Motion carried. The Council asked Rohr to give an update on the findings of the housing survey that was done. Motion carried with one negative vote (Yarrington).

ORDINANCE ____ - ____

**ORDINANCE TO ADOPT THE
2024 CITY OF TOMAH COMPREHENSIVE PLAN**

CITY COUNCIL OF THE CITY OF TOMAH, WISCONSIN

The City Council of the City of Tomah, Wisconsin, does ordain as follows:

SECTION ONE: Pursuant to sections 61.35 and 62.23(2) and (3) of Wisconsin Statutes, the City of Tomah is authorized to prepare and adopt a comprehensive plan as defined in sections 66.1001(1)(a) and 66.1001(2) of the Wisconsin Statutes.

SECTION TWO: The City of Tomah adopted its comprehensive plan in 2013 entitled “City of Tomah Comprehensive Plan,” and as part of the adoption of a comprehensive plan, the City Council adopted has since followed written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by §66.1001(4)(a) of the Wisconsin Statutes.

SECTION THREE: The City of Tomah has, in compliance with the requirements of section 66.1001(4)(d) of the Wisconsin Statutes, provided opportunities for public involvement per its adopted public participation plan.

Common Council – July 16, 2024

SECTION FOUR: The Plan Commission of the City of Tomah, by a majority vote of the entire Commission recorded in its official minutes, has adopted a resolution recommending to the City Council the adoption of the City of Tomah 2024 Comprehensive plan on July 10, 2024.

SECTION FIVE: On July 16, 2024, the City Council held a public hearing on the proposed 2024 Comprehensive Plan and considered the public comments made and the recommendations of the Plan Commission and staff.

SECTION SIX: The City Council of Tomah, Wisconsin, does ordain that the proposed 2024 Comprehensive Plan is hereby adopted pursuant to section 66.1001(4)(c) of Wisconsin Statutes.

SECTION SEVEN: All ordinances in conflict with the foregoing are hereby repealed.

SECTION EIGHT: This ordinance shall take effect upon passage and publication. Adopted this 16th day of July, 2024.

CITY OF TOMAH

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, City Clerk

Mayor
Decision on Continuation of SET or Reinstatement of City Administrator

Motion by Zabinski, second by Pater, to reinstate the City Administrator and to create a committee to produce a job description, pay grade salary, and to bring it back to the Council. After that, proceed with a job announcement. Scholze voiced concerns about not having enough information such as cost, job description, and where inside the budget the money will come from. The mayor asked for a roll call vote: Yay, Zabinski and Pater. Nay: Scholze, Yarrington, Hart, Devine, and Peterson. Motion failed. There was no further discussion.

City Attorney Update on Sign Ordinances

Attorney Precour updated the Council on her research on the sign ordinance. She stated that the state statutes are clear on the rules on Highway 12 running through the downtown area, but there may be ideas taken from other municipalities, such as issuing permits, for other areas in the city. Precour suggested a committee to look at changing the city’s ordinance. The mayor opined he would like to see a committee formed. Attorney Precour stated she will return next month with a drafted ordinance creating an ordinance committee for this purpose.

The Mayor recognized Jim Stroh to ask Attorney Precour questions about the city’s ability supersede the state’s laws.

The Mayor recognized Jim Weber to speak about his concerns about more than just sandwich board signs, but all signs in the City of Tomah.

Motion by Scholze, second by Peterson to direct the City attorney to draft an ordinance to create an ordinance committee, and to continue to enforce removal of signs in the median and allow signs on the side walk until the committee can recommend an ordinance change to the Council. Motion carried.

Approval of amendment of Job Description and Title for Building Inspector/Zoning Administrator to Economic Development/Zoning Director (if needed)

Motion by Yarrington, second by Scholze to approve the amendment to the job description as presented. Motion carried with two negative votes. (Pater and Zabinski).

Approval of Job Description Amendment for Bookkeeper/Code Enforcement Officer to Code Enforcement Officer/Inspection and Zoning Assistant

Motion by Scholze, second by Yarrington, to approve the job description for the Code Enforcement Officer/Inspection and Zoning Assistant as presented. Motion carried with two negative votes (Pater and Zabinski)

Monthly SET Report

The members of SET provided a monthly written report. Kirk Arity gave a brief reiteration of the economic development training he attended earlier this year. Powell gave a short explanation of how room tax dollars are allocated in the city, (4% to Chamber of Commerce, 1% to fund annual improvements to Recreation Park, 1.25% to fund improvements for the Tomah Ice Center, and 1.75% to fund the initial construction of, and improvements to, the Flare Avenue ballfield/park complex.) She also expounded that the city has a façade improvement program that has been in place since 2019. SET is working with Vandewalle to revise the program to make it more desirable to downtown business owners and will bring it back to the Council for review.

Public Safety June Monthly Report

Chief Adler provided a monthly written report. Adler thanked the Andres Grant Foundation for providing grants to the Fire and EMS departments to purchase Angel Lights to protect them in the dark during calls. They are still waiting for the new ambulance to come in. 1100 Superior is still working with the insurance companies, 1102, 1104, and 1106 Superior Ave. are all contracted with Gerke for demolition. Peking restaurant is still working with insurance on repairs.

Ambulance Special Events Fee Increase for 2025

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The ambulance commission approved an increase to their special events fees from \$85 to \$100, and out of town events from \$85 to \$150. Motion by Scholze, second by Peterson, to approve the fee increase. Motion carried.

On Campus VA Transfer Ambulance Rate

Motion by Yarrington, second by Scholze, to approve the on-campus VA transfer rate to \$300. Motion carried.

Library

The stairs at the library should be done by the end of September or beginning of October. There were 2,097 eBooks and 2,914 physical checkouts from the library last month. Keller covered the upcoming events and the new books at the library. Details and events can be found on the library’s website at tomahpubliclibrary.org.

Senior & Disabled Services Monthly Report

Dir. Buchda gave a summary of the participation last month and let the Council and public know about the upcoming events. Buchda thanked the Andres Trust for the grants received last month. The arts and crafts sale will be on the opening weekend of deer hunting in November. They are looking at donations of craft items and baked goods for that sale.

Building 1004 - New Air Conditioner/Furnace

Motion by Pater, second by Scholze, to approve the use of \$15,250 for the replacement of the HVAC system at 1004 Superior Ave. Motion carried.

Permit Report June 2024

Written monthly reports were provided. After approval of the fee schedule and ordinance changes, the final contract will be signed, state delegation approved, and start dates selected for General’s onboarding. Shane has been doing final occupancies and cleaning out outstanding permit requests in the que, but getting the full-time inspector on board will alleviate the rest of the outstanding permits.

CONSENT AGENDA:

Motion by Peterson, second by Zabinski, to approve the following consent agenda:

- A. Approval of Minutes from May 28, 2024
- B. Approval of Minutes from June 18, 2024
- C. Request from Kelsey’s Class Act Bar and The Elbow Room for special amendments to the premises description of their Class “B” Fermented Malt Beverage Licenses and “Class B” Liquor Licenses for a special event on August 10, 2024
- D. Approval of two new taxicab licenses for Abby Vans Inc. DBA Tomah Transit
- E. Special Event Outdoor Cabaret License for The Crow Bar located at 1206 Superior Ave in Tomah, WI for August 31, 2024
- F. June 30, 2024 Cash and Investments Report

Carried.

Approval of an Outdoor Facilities License for JAC’s Steakhouse, located at 309 Superior Ave

Motion by Scholze, second by Zabinski, to approve the outdoor facilities license for JAC’s Steakhouse at 309 Superior Ave. Motion carried.

Resolution approval for CMAR

Motion by Yarrington, second by Zabinski, to approve the resolution for Public Works Compliance Maintenance. Motion carried.

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Resolution No. _____

COMPLIANCE MAINTENANCE RESOLUTION

RESOLVED that the City of Tomah informs the Department of Natural Resources that the following actions were taken by the City Council:

Review of the 2023 Compliance Maintenance Annual Report, which is attached to this Resolution.

Monitor the operation of the wastewater treatment facility to maintain permit compliance.

Implement and complete a Capacity, Management, Operation and Management (CMOM) program once the DNR drafts a final ruling.

Passed by a _____ vote of the Tomah City Council on July 16, 2024

Paul Dwyer, Mayor

Rebecca Weyer, City Clerk

Approval of 2025 Curly Leaf Pondweed Project

Motion by Peterson, second by Yarrington, to approve up to \$7934 for the 2025 budget for the purchase of a curly leaf pondweed project and point intercept survey for Lake Tomah. Motion carried.

Easement agreement approval - 625 W Veterans St.

Motion by Peterson, second by Zabinski, to approve the easement agreement between the City of Tomah and the owners of 625 W Veterans Street. Motion carried.

Amendment of Ordinance Section 30-48(A)(B) First Reading, Second Reading, Adoption

This item was postponed at staff request until a previous ordinance change is updated in the city’s code of ordinances and then this item will be brought back to the Council.

Approval of Budget Amendment for TID 11 Road Expense

Motion by Yarrington, second by Zabinski, to approve the budget amendment for TID 11 (account 20-57331-8200) to cover the expense of road improvements in TID 8. in the amount of \$17,250.00. Motion carried.

Approve updated Inspection and Permit Fee Schedule

Motion by Scholze, second by Zabinski, to approve the updated inspection and permit fee schedule as presented. Motion carried.

Approval of ARPA funds for Purchase of Seven new Handicapped Accessible Voting Booths

Motion by Zabinski, second by Scholze, to approve use of \$7250 in ARPA funds for the purchase of seven new handicapped accessible voting booths. Motion carried.

Easement agreement approval - 621 Pearl St.

Motion by Peterson, second by Zabinski, to approve the easement agreement between the City of Tomah and the owners of 621 Pearl street. Motion carried.

Resolution Authorizing Payment of Monthly Bills

Motion by Zabinski, second by Yarrington, to approve the resolution authorizing the payment of monthly bills in the amount of \$2,423,608.42. Motion carried.

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RESOLUTION NO : _____

RESOLUTION AUTHORIZING
PAYMENT OF MONTHLY BILLS

Be it resolved by the Common Council of the City of Tomah that the Committee of the Whole has reviewed the monthly bills and recommends the City Council approve said bills as follows:

1. Pre-Paid Checks:	2024	\$1,591,488.11	Check #'s:	145061 145099	145089 145197
2. Payroll:		\$327,051.20	Dir Dep #'s:	9302838	9303114
3. Wire/ACH Transfers:		\$466,725.16			
4. Invoices:		\$38,343.95	145266-145282		
Total:		<u>\$2,423,608.42</u>			

Mayor

Clerk

Requested by: Finance Department

Submitted by: Committee of the Whole

July 15, 2024

Approval of ARPA funds for HVAC Project at 1004 Superior Ave
This item was approved earlier in the agenda.

Ordinance Amending Sections 10-7, 10-37, 10-95 and Creating Section 10-97 of the City of Tomah Municipal Code 1st Reading, 2nd Reading, Adoption

Motion by Zabinski, second by Yarrington, to waive the first verbatim reading of the ordinance amending Sections 10-7, 10-37, 10-95 and Creating Section 10-97 of the City of Tomah Municipal Code. Motion carried.

Motion by Scholze, second by Zabinski, to waive the second verbatim reading of the ordinance amending Sections 10-7, 10-37, 10-95 and Creating Section 10-97 of the City of Tomah Municipal Code. Motion carried.

Motion by Scholze, second by Peterson, to adopt the ordinance amending Sections 10-7, 10-37, 10-95 and Creating Section 10-97 of the City of Tomah Municipal Code. Motion carried.

ORDINANCE NO. _____	
Ordinance Amending Sections 10-7, 10-37, 10-95 and Creating Section 10-97 of the City of Tomah Municipal Code	
The Common Council of the City of Tomah, Monroe County, Wisconsin, do ordain as follows:	
SECTION ONE: Section 10-7 is hereby amended to read as follows:	
Section 10-7. Procedure adopted.	
Variances, appeals and determinations shall follow the procedures set out in Wis. Admin. Code Ch. SPS 316, § SPS 320.19, § SPS 320.20, § SPS 320.21, § SPS 361.21, § SPS 361.22, and § SPS 382.20.	
SECTION TWO: Section 10-37 is hereby amended to read as follows:	
Section 10-37. Term; fees.	
Building permits shall expire 12 months after the date of issue, providing the work has commenced within six months of the date of issue. Wisconsin Uniform Building Permits shall expire 24 months after issuance if the dwelling exterior has not been completed.	
Fees as established by resolution of the city council shall be collected at the time the permit is issued. No permit fee will be charged when the work is done for the city.	
SECTION THREE: Section 10-95 is hereby amended to read as follows:	
Section 10-95. – Adoption of building regulations. The following building regulations are hereby adopted and incorporated to the City of Tomah Code of ordinances by reference:	
1. One- and two-family dwelling units. The Wisconsin Uniform Dwelling Code, Chs. SPS 320-325 and Camping Units, Ch. SPS 327 of the Wisconsin Administrative Code, and all amendments thereto, shall apply to all one- and two-family dwelling units and accessory buildings, including existing units.	
The building codes shall apply to the alternation, enlargement or repair of existing 1- and 2-family dwellings constructed prior to June 1, 1980, for which a building permit is required under this Chapter. Submitted building permit applications for alterations or additions to homes built prior to June 1, 1980, may provide alternative methods or materials that, when deemed necessary in the opinion of the Building Inspector, meet the current intent of the code.	
The building codes shall apply to an existing building to be occupied as a one- or two-family dwelling, in which the building was not previously so occupied.	
Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this Chapter.	
2. Commercial buildings. Chs. SPS 360—366 of the Wisconsin Commercial Building Code (Wis. Admin. Code § 361.01 et seq.), specifically including Wis. Admin. Code § 361.60(4) regarding certification of inspectors; and Wis. Admin. Code 361.60, Certified Municipalities shall apply to all commercial buildings.	
<ul style="list-style-type: none">Ch. SPS 302.31, Plan Review Fee ScheduleCh. SPS 305, CredentialsChs. SPS 375-379, Buildings Constructed Prior to 1914	

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3. Wisconsin State Statutes Chapter 101 Department of Safety and Professional Services – Regulation of Industry, Buildings, and Safety.

SECTION FOUR: Section 10-97 is hereby created as follows:

Sec. 10-97. Certified Municipality Status.

1. Certified Municipality. The City of Tomah hereby adopts the Certified Municipality Status as described in SPS 361.60 of the Wisconsin Administrative Code as follows:

a. Responsibilities. The City shall assume the following responsibilities for the Department of Safety and Professional Services (Department):

- 1). Provide inspections of all commercial buildings with certified commercial building inspectors.
- 2). Provide plan reviews of all commercial buildings with certified commercial building inspectors.

b. Plan Examination. Drawings, specifications, calculations for all the types of buildings and structures, except state-owned buildings and structures, to be constructed within the limits of the municipality shall be submitted, if the plans are for commercial buildings, without size limitations [Appointed Agent per Wis. Stat. § 101.12(3g)]

c. Waivers by Municipality or Department.

- 1). A certified municipality may waive its jurisdiction for the plan review of a specific project or type of project, or components thereof, in which case plans and specifications shall be submitted to the Department for review and approval.
- 2). The Department may waive its jurisdiction for the plan review of a specific project, agreed to by a certified municipality, in which case plans and specifications shall be submitted to the certified municipality for review and approval.

d. Plan Submission Procedures. All commercial buildings, structures, and alterations, including new buildings and additions less than 25,000 cubic feet, require plan submission as follows:

- 1). Building permit application.
- 2). Application for review – SBD-118, or equivalent, along with payment of applicable fees established by resolution of the City.
- 3). Four sets of complete building plans that include the following.
 - a). Signed and sealed per SPS 361.31.
 - b). One set of specifications.
 - c). Component and system plans.
 - d). Calculations showing code compliance.

SECTION FIVE: All ordinances in conflict with the foregoing are hereby repealed.

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SECTION SIX: This ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, City Clerk

READ:

PASSED:

PUBLISHED:

ADJOURN

Motion by Peterson, second by Scholze, to adjourn. Motion carried. The meeting adjourned at 8:19 p.m.

Paul Dwyer, Mayor

Rebecca Weyer, City Clerk

MINUTES FOR COMMON COUNCIL TUESDAY, AUGUST 20, 2024

Call to Order, Pledge of Allegiance, Roll Call

The meeting was called to order by Mayor Paul Dwyer at 6:00 p.m. After the Pledge of Allegiance, roll call was taken. Present: Paul Dwyer, Travis Scholze (remote), Richard Yarrington, Shawn Zabinski, John Glynn, Nicole Hart (remote, then arrived at the meeting in person at 6:25 p.m.), Patrick Devine, Nelly Pater, and Dean Peterson. Absent: none. Also present: Kirk Arity, Becki Weyer, Jeremy Likely, Adam Robarge, Irma Keller, and Pam Buchda. The meeting was available via Zoom and was recorded by Hagen Sports Network. All motions are unanimously approved unless otherwise noted.

Adjourn to Closed Session Pursuant to Wis Stat § 19.85 (g) to Confer with Legal Counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved
Motion by Peterson, second by Yarrington, to adjourn to closed session pursuant to Wis Stat § 19.85(g) as stated above. Motion carried.

Council adjourned to closed session at 6:03 p.m. The Council remained in Chambers with the City Attorney; all others were asked to leave the meeting.

The meeting resumed to open session at 6:56 p.m.

ANYONE DESIRING TO APPEAR TO COUNCIL

John Glynn invited everyone to the flag raising ceremony at Cardinal Glass on October 4th to celebrate the achievement of an important level of OSHA certification.

Mayor
The Mayor did not give a report.

Monthly SET Report
The Senior Executive Team provided a monthly written report and Arity provided a summary for the Council.

Public Safety July Monthly Report
Chief Adler provided a monthly written report.
Fire: Jeremy Likely appeared to give highlights of the fire report and answer any questions from the Council.
EMS: Adam Robarge appeared to give a summary of the EMS report and answer any questions from the Council.

Tomah Area Ambulance MOU with the updated Stipend changes
The MOU updates the chart and pay for off-duty transfers to the following:

ARTICLE 19
RECALL/OFF-DUTY TRANSFERS

B. Off-Duty Transfers

Employees called in for interfacility transfers will be compensated at the following rates in lieu of hourly compensation:

Destination	Paramedic/CC-Medic	EMT / AEMT	~ Time & Distances
In-Town	\$75	\$50	-
La Crosse	\$125	\$100	45 Miles / 45 Minutes
Marshfield / Eau Claire	\$175	\$150	75 Miles / 75 Minutes
Madison / Rochester	\$225	\$200	100 Miles / 112 Minutes
Milwaukee / Green Bay / Minn.	\$400	\$375	170 Miles / 150 minutes

Motion by Scholze, second by Yarrington, to approve the MOU as presented. Motion carried.

Library
Dir. Keller covered the checkouts from the library over the last month and the upcoming scheduled events. Details can be found at tomahpubliclibrary.org.

Senior & Disabled Services Department Monthly Report
Buchda provided a monthly written report and covered the highlights with the Council. She directed anyone who would like a booth at the craft fair to contact her; it will be held during opening weekend of deer hunting.

Permits and Code Enforcement Reports
Casey Kinnear submitted monthly permits and code enforcement reports.

Motion to Reconsider Reinstatement of City Administrator by Alderperson Patrick Devine
Patrick Devine Alderperson made a motion for the Council to reconsider the motion for reinstatement of the City Administrator made at the July Council meeting. Nellie Pater seconded this. Scholze brought up the fact that the motion to reconsider is improper due to the fact that actions, money, and contracts have been signed after the motion was passed. Role call vote: Travis Scholze, no, Richard Yarrington, no, Shawn Zabinski, Yes, John Glynn, No, Nicole Hart, no, Patrick Devine, yes, Nellie Pater, Yes, Dean

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Peterson, No. The Mayor broke the tie with a yes vote. The motion is reconsidered. Point of order by Travis Scholze that discussion of a City Administrator was not on the agenda and should not be discussed. The City Attorney suggested that the agenda item as written has alerted the public about the topic to be discussed. Motion by Pater, second by Zabinski, to reinstate the City Administrator and to create a committee to produce a job description, pay grade salary, and to bring it back to the Council. The Council members again had a lengthy discussion of the merits of a City Administrator vs. the current Senior Executive Team. Pater asked to withdraw her motion, Zabinski withdrew her second. Motion by Pater, second by Zabinski to form a committee to research having a City Administrator position, with a job description and salary and bring back to council. It was discussed that if formed, the committee should weigh the pros and cons of the City Administrator position vs. the current SET that is in place. Pater declined to amend her motion.

The Mayor recognized Irma Keller, and she asked if the Council would consider asking other department heads on said committee if it is formed.

The Mayor recognized Mike Kelly to speak. He made a comment asking if the Council has done a more extensive review of each department to see what problems exist and where a City Administrator could improve things.

Scholze asked for the makeup of the committee and if the committee would be ad hoc and the mayor and Pater opined that yes, it would.

Yarrington called the question to have a vote on moving forward without further discussion.

The vote was called. Roll call vote was called: Yarrington: No. Scholze, No: Zabinski, yes, Glynn: no, Hart: No, Devine: No, Pater: Yes, Peterson: No. Motion failed with six negative votes.

Motion by Glynn, second by Yarrington to form an ad hoc committee to investigate the possibility to create a city administrator position. The committee shall define the job description, the pay range, and the pros and cons of the existence of a position compared to the SET and would indicate where the money will come from in the budget. The mayor called a vote. Motion carried with one negative vote. (Scholze.)

The mayor called a short break at 8:30p.m.

Discussion on dates/availability for Elected Official Training - Alderperson John Glynn

There will be a training event for council members and any commission/committee member who wishes to attend. Glynn asked the Council members for their availability over the next month to get dates when everyone would be able to attend the planned training. September 18th, October 2nd, and October 9th, at 6:00p.m. were discussed as potential dates. The finalized date and time will be shared with other committee members. Council asked the cost of the training, and the clerk said it would be approximately \$2500.

CONSENT AGENDA:

Motion by Peterson, second by Zabinski, to approve the following consent agenda:

- A. Approval of Minutes from July 16, 2024
- B. Appointment of 2024-2025 Election Officials
- C. Special Beer and Wine Permit Application by Tomah Rotary Club for Neighborhood Block Party on September 13-14, 2024
- D. Application of “Class A” Liquor, Class “A” Fermented Malt Beverage Licenses and Renewal of Class “B” Fermented Malt Beverage Licenses and “Class C” Wine Beverage License
- E. Approval of Airport Hangar No. 11 lease transfer from Mark Kenworthy to Susan Kenworthy in the lease between City of Tomah and Mark Kenworthy

Motion carried.

Amendment of Ordinance Section 30-48(A)(B) First Reading, Second Reading, Adoption

Motion by Yarrington, second by Zabinski, to waive the first verbatim reading of the Ordinance amending ordinance Section 30-48(a)(b) of the City of Tomah Municipal Code. Motion carried

Motion by Peterson, second by Zabinski, to waive the second verbatim reading of the Ordinance amending ordinance Section 30-48(a)(b) of the City of Tomah Municipal Code. Motion carried

Motion by Peterson, second by Yarrington, to adopt the Ordinance amending ordinance Section 30-48(a)(b) of the City of Tomah Municipal Code. Motion carried

Common Council – August 20, 2024

Ordinance Amending Section 30-84 of the City of Tomah
Municipal Code

The Common Council of the City of Tomah, Monroe County, Wisconsin, do ordain as follows:

SECTION ONE: Section 30-84 of the City of Tomah Municipal Code is hereby amended to read as follows:

Sec. 30-84. Removal requirements; construction and anchoring specifications.

- (a) Date for removal. No dock may be placed in Lake Tomah before April 1 of the calendar year, or at such time as all ice is melted, whichever is earlier, and all docks must be removed by November 1st of the same calendar year.
- (b) Removal by city. Any dock or boat lift not removed by November 1st as required herein shall be removed by the city public works department at the expense of the property owner. The cost for removing the dock shall be the sole and exclusive responsibility of the property owner. If the property owner does not reimburse the city for the removal costs within 30 days after receiving an itemized statement of the removal costs from the city, the removal costs shall be attached as a special assessment to the property owner's real estate tax bill.
- (c) All docks shall be temporary structures and shall be capable of being removed by the property owner within a reasonable period of time after such a request by the city.
- (d) No dock shall exceed a maximum length of 24 lineal feet from the shore and a maximum length of 12' parallel to the shore as defined in section 30-80.
- (e) No dock shall be less than a minimum of 30 inches wide nor more than a maximum of 72 inches wide.
- (f) No dock shall include more than one boat lift per dock.
- (g) All docks must be framed with metal or treated wood in accordance with the normal and customary practices in the industry.
- (h) All docks must be securely anchored to the shoreline.
- (i) Any dock constructed or maintained by the city, or any agency thereof, on public areas shall be subject to the specifications approved by the public works and utilities commission and the lake district commissioners of the city.

SECTION TWO: All ordinances in conflict with the foregoing are hereby repealed.

SECTION THREE: This ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor
Approval of vacation and sick leave pre approval for external Sergeant candidates
Motion by Zabinski, second by Glynn to approve the vacation and sick leave for external Sergeant candidates if needed. Motion carried.

Resolution approval to petition WI DOT for state and federal aid at Bloyer Field
Motion by Yarrington, second by Peterson, to approve the resolution for approval to petition the WI DOT for state and Federal aid at Bloyer Field. Motion carried.

**RESOLUTION PETITIONING
THE SECRETARY OF TRANSPORTATION
FOR AIRPORT IMPROVEMENT AID
BY**

**Common Council of the City of Tomah
Monroe County, Wisconsin**

WHEREAS, the City of Tomah, Monroe County, Wisconsin hereinafter referred to as the sponsor, being a municipal body corporate of the State of Wisconsin, is authorized by Wis. Stat. §114.11, to acquire, establish, construct, own, control, lease, equip, improve, maintain, and operate an airport, and

WHEREAS, the sponsor desires to develop or improve the Bloyer Field airport, Monroe County, Wisconsin,

"PETITION FOR AIRPORT PROJECT"

WHEREAS, the foregoing proposal for airport improvements has been referred to the city plan commission for its consideration and report prior to council action as required by Wis. Stat. §62.23(5), and

WHEREAS, airport users have been consulted in formulation of the improvements included in this resolution, and

WHEREAS, a public hearing was held prior to the adoption of this petition in accordance with Wis. Stat. §114.33(2) as amended, and a transcript of the hearing is transmitted with this petition, and

THEREFORE, BE IT RESOLVED, by the sponsor that a petition for federal and (or) state aid in the following form is hereby approved:

The petitioner, desiring to sponsor an airport development project with federal and state aid or state aid only, in accordance with the applicable state and federal laws, respectfully represents and states:

1. That the airport, which it is desired to develop, should generally conform to the requirements for a general aviation type airport as defined by the Federal Aviation Administration.
2. The character, extent, and kind of improvements desired under the project are as follows: Reconstruct airfield electrical including NAVAIDS; Maintain Airfield Pavements; Clear and maintain runway approaches as stated in Wis. Admin. Code Trans §55, and any necessary related work.
3. That the airport project, which your petitioner desires to sponsor, is necessary for the following reasons: to meet the existing and future needs of the airport.

WHEREAS, it is recognized that the improvements petitioned for as listed will be funded individually or collectively as funds are available, with specific project costs to be approved as work is authorized, the proportionate cost of the airport development projects described above which are to be paid by the sponsor to the Secretary of the Wisconsin Department of Transportation (hereinafter referred to as the Secretary) to be held in trust for the purposes of the project; any unneeded and unspent balance after the project is completed is to be returned to the sponsor by the Secretary; the sponsor will make available any additional monies that may be found necessary, upon request of the Secretary, to complete the project as described above; the Secretary shall have the right to suspend or discontinue the project at any time additional monies are found to be necessary by the Secretary, and the sponsor does not provide the same; in the event the sponsor unilaterally terminates the project, all reasonable federal and state expenditures related to the project shall be paid by the sponsor; and

WHEREAS, the sponsor is required by Wis. Stat. §114.32(5) to designate the Secretary as its agent to accept, receive, receipt for and disburse any funds granted by the United States under the Federal Airport and Airway Improvement Act, and is authorized by law to designate the Secretary as its agent for other purposes.

Common Council – August 20, 2024

"DESIGNATION OF SECRETARY OF TRANSPORTATION AS SPONSOR'S AGENT"

THEREFORE, BE IT RESOLVED, by the sponsor that the Secretary is hereby designated as its agent and is requested to agree to act as such, in matters relating to the airport development project described above, and is hereby authorized as its agent to make all arrangements for the development and final acceptance of the completed project whether by contract, agreement, force account or otherwise; and particularly, to accept, receive, receipt for and disburse federal monies or other monies, either public or private, for the acquisition, construction, improvement, maintenance and operation of the airport; and, to acquire property or interests in property by purchase, gift, lease, or eminent domain under Wis. Stat. §32.02; and, to supervise the work of any engineer, appraiser, negotiator, contractor or other person employed by the Secretary; and, to execute any assurances or other documents required or requested by any agency of the federal government and to comply with all federal and state laws, rules, and regulations relating to airport development projects.

FURTHER, the sponsor requests that the Secretary provide, per Wis. Stat. §114.33(8)(a), that the sponsor may acquire certain parts of the required land or interests in land that the Secretary shall find necessary to complete the aforesaid project.

"AIRPORT OWNER ASSURANCES"

AND BE IT FURTHER RESOLVED that the sponsor agrees to maintain and operate the airport in accordance with certain conditions established in Wis. Admin. Code Trans §55, or in accordance with sponsor assurances enumerated in a federal grant agreement.

AND BE IT FURTHER RESOLVED THAT THE _____ and _____
be authorized to sign and execute the agency agreement and federal block grant owner assurances authorized by this
resolution.

RESOLUTION INTRODUCED BY:

_____ (TITLE)

_____ (TITLE)

_____ (TITLE)

CERTIFICATION

I, _____, Clerk of the City of Tomah, Wisconsin, do hereby certify that the foregoing is a correct copy of a resolution introduced at a _____ meeting of the _____ on _____, 20____, adopted by a majority vote, and recorded in the minutes of said meeting.

Clerk

W:\Airports\Blover Field\Petition\04-24Y72res.docx

Approval of agreement for 823 W. Veterans St.

Motion by Peterson, second by Zabinski, to approve the easement agreement between the City of Tomah and the owners of 823 W. Veterans St. Motion carried.

Ordinance amendment approval - Sec 10-37 (Permit Fee Schedule)

Motion by Peterson, second by Glynn, to waive the first verbatim reading of the ordinance amending Sec. 10-37 Regarding the permit fee schedule. Motion carried.

Motion by Peterson, second by Glynn, to waive the second verbatim reading of the ordinance amending Sec. 10-37 Regarding the permit fee schedule. Motion carried.

Motion by Peterson, second by Glynn, to adopt the ordinance amending ordinance Sec. 10-37, the permit fee schedule. Motion carried.

Common Council – August 20, 2024

ORDINANCE NO. _____

Ordinance Amending Section, 10-37 of the City of Tomah
Municipal Code

The Common Council of the City of Tomah, Monroe County, Wisconsin, do ordain as follows:

SECTION ONE: Section 10-37. – Term; fees is hereby amended to read as follows:

Building permits shall expire 12 months after the date of issue, providing the work has commenced within six months of the date of issue. Wisconsin Uniform Building Permits shall expire 24 months after issuance if the dwelling exterior has not been completed. Fees as established by resolution of the city council shall be collected at the time the permit is issued.

SECTION TWO: All ordinances in conflict with the foregoing are hereby repealed.

SECTION THREE: This ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, City Clerk

READ:
PASSED:
PUBLISHED:

Amendment of Ordinance Section 52-34(a)(3) First Reading, Second Reading, Adoption
Motion by Peterson, second by , to waived by Zabinski, e first verbatim reading of the ordinance amending Section 52-34(a)(3). Motion carried.

Motion by Peterson, second by Zabinski, to waive the second verbatim reading of the ordinance amending Section 52-34(a)(3). Motion carried.

Motion by Peterson, second by Zabinski, to adopt the ordinance amending Section 52-34(a)(3). Motion carried.

ORDINANCE NO. _____

Ordinance Amending Section 52-34 (a) (3) of the City of Tomah
Municipal Code

The Common Council of the City of Tomah, Monroe County, Wisconsin, do ordain as follows:

SECTION ONE: Section 52-34 (a) (3) of the City of Tomah Municipal Code is hereby amended to read as follows:

(3) Conditional uses. Home or office occupation, government and cultural, utilities and R-2 one- and two-family residential district.

SECTION TWO: All ordinances in conflict with the foregoing are hereby repealed.

SECTION THREE: This ordinance shall take effect upon passage and publication.

Michael Murray, Mayor

ATTEST:

Rebecca Weyer, City Clerk

READ:
PASSED:
PUBLISHED:

Approval of Amendment of Chapter 5 City of Tomah Personnel Manual
Motion by Zabinski, second by Glynn, to approve the amendments to Chapter 5 City of Tomah Personnel Manual as submitted. Motion carried.

Common Council – August 20, 2024

Approval of sale of equipment to the Village of Warrens

Motion by Yarrington, second by Zabinski, to approve the sale of the old city recycling truck to the Village of Warrens. Motion carried.

Resolution Authorizing Payment of Monthly Bills

Motion by Zabinski, second by Glynn, to approve the resolution authorizing the payment of monthly bills in the amount of \$2,744,527.79. Motion carried.

RESOLUTION NO 2024-08-20-16

RESOLUTION AUTHORIZING
PAYMENT OF MONTHLY BILLS

Be it resolved by the Common Council of the City of Tomah that the Committee of the Whole has reviewed the monthly bills and recommends the City Council approve said bills as follows:

1. Pre-Paid Checks:	2024	\$1,639,019.77	Check #'s:	145198 145283	145264 145443
2. Payroll:		\$513,193.89	Dir Dep #'s:	9303115	9303573
3. Wire/ACH Transfers:		\$457,475.22			
4. Invoices:		\$134,838.91			
Total:		<u>\$2,744,527.79</u>			

Mayor

Clerk

Requested by: Finance Department

Submitted by: Committee of the Whole

August 19, 2024

July 31, 2024 Cash and Investments Report

Motion by Zabinski, second by Peterson, to approve the July 31, 2024 Cash and Investments Report. Motion carried.

Ordinance Creating Section 2-559 through 2-563 of the Municipal Code of the City of Tomah for Creation of an Ordinance Committee

Motion by Peterson, second by Zabinski, to waive the first verbatim reading of the ordinance creating Section 2-559 through 2-563 of the Municipal Code of the City of Tomah for Creation of an Ordinance Committee. Motion carried.

Motion by Peterson, second by Zabinski to have the City attorney revise the ordinance so that it states the committee is as needed and to have the mayor choose the members at the next meeting. Motion carried.

Appointment of Laura Holloway to fulfill the remaining term of Garret Nelson ending in April, 2027

Motion by Peterson, second by Zabinski, to approve the appointment of Laura Holloway to the Chamber/CVB to fulfill the remaining term of Garrett Nelson ending in April, 2027. Motion carried.

ADJOURN

Motion by Peterson, second by Zabinski, to adjourn the meeting. Motion carried. The meeting was adjourned at 8:59 p.m.

Paul Dwyer, Mayor

Rebecca Weyer, City Clerk

MINUTES FOR COMMON COUNCIL SEPTEMBER 17, 2024

Call to Order, Pledge of Allegiance, Roll Call

Mayor Paul Dwyer called the meeting to order at 6:30 p.m. After the Pledge of Allegiance, roll call was taken. Present: Paul Dwyer, Travis Scholze, Richard Yarrington, Shawn Zabinski, John Glynn, Nicole Hart, Patrick Devine, Nellie Pater, and Dean Peterson. Absent: none. Also present: Kirk Arity, Becki Weyer, Molly Powell, Tim Adler, Irma Keller, Tina Thompson, and Pam Buchda. The meeting was recorded by Hagen Sports network and was available via zoom. All motions are unanimously approved unless otherwise notated.

ANYONE DESIRING TO APPEAR TO COUNCIL

No one desired to appear to Council.

Mayor

The mayor did not give a report.

Senior Executive Team Monthly Report

SET provided a monthly written report. Kirk Arity answered questions from the Council.

Public Safety August Monthly Report

Fire: Adler covered details of the recent fire. There was a total loss of the mobile home and detached garage, along with damage to the neighboring house. Fire inspectors are out working on the second round of inspections in the city. Alder will be giving a presentation at the Firefighter’s Association on his experience with downtown fires, which are unfortunately common in other municipalities.

Ambulance: Call volume continues to rise every month. On August 29th they had the TAAS annual meeting discussing the per capita rate. The per capita rate will stay at \$20.00 from 2024 to 2025. The ambulance remount will be completed soon.

Library

There were 1999 eBook and 5020 physical checkouts during the month of August. Keller provided an update on the new books at the library. She gave a recap of the recent and upcoming activities and events. There has been a delay in the completion of the library stairs. Those looking for additional information can visit the library’s website at tomahpubliclibrary.org.

Chamber and CVB

There is good engagement with the social media efforts. They are planning the area guide. They are expecting an increase in tourism during Cranfest. The leadership program has started.

September 2024 Senior & Disabled Services Department monthly report

Buchda provided a monthly written report and gave a summary to the Council. November 8th is the last day to sign up for a booth for the upcoming craft fair. The annual Halloween party is coming up on October 31st. Buchda is looking for volunteers. Trick or treat hours are 4pm-7pm on Halloween night.

CONSENT AGENDA:

Motion by Zabinski, second by Yarrington, to approve the following consent agenda:

- A. Approval of Minutes from August 20, 2024
- B. Special Event Outdoor Cabaret License for the Greater Tomah Area Chamber of Commerce for the 800 and 900 blocks of Superior Avenue for six “Downtown Thursday Nights” concert events in July and August of 2025.
- C. Special Beer and Wine License Application by the Tomah Lions Club for Downtown Thursday Nights in July and August of 2025.
- D. Special Beer Permit Application by Tomah Firefighters Association for Hunters Night Out on November 2, 2024.
- E. August 31, 2024 Cash and Investments Schedule

Motion carried.

Resolution Authorizing Payment of Monthly Bills

Motion by Scholze, second by Zabinski, to approve the resolution authorizing payment of monthly bills in the amount of \$2,826,141.52. Motion carried.

Common Council – September 17, 2024

RESOLUTION NO :

RESOLUTION AUTHORIZING
PAYMENT OF MONTHLY BILLS

Be it resolved by the Common Council of the City of Tomah that the Committee of the Whole has reviewed the monthly bills and recommends the City Council approve said bills as follows:

1. Pre-Paid Checks:	2024	\$1,895,581.64	Check #'s:	145445 145491	145461 145601
2. Payroll:		\$313,157.78	Dir Dep #'s:	9303574	9303866
3. Wire/ACH Transfers:		\$534,785.77			
4. Invoices:		\$82,616.33			
Total:		<u>\$2,826,141.52</u>			

Mavor

Clerk

Requested by: Finance Department

Submitted by: Committee of the Whole

September 16, 2024

Ordinance to Create Ordinance Committee (First Reading, Second Reading, Adoption)

Motion by Scholze, second by Yarrington, to waive the first verbatim reading of the ordinance to create an ordinance committee. Motion carried.

Motion by Zabinski, second by Pater, to waive the second verbatim reading of the ordinance to create and ordinance committee. Motion carried.

Motion by Zabinski, second by Glynn, to adopt the ordinance to create the ordinance committee. Motion carried.

Ordinance No.

ORDINANCE CREATING SECTION 2-559 THROUGH 2-563 OF THE
MUNICIPAL CODE OF THE CITY OF TOMAH

The Common Council of the City of Tomah, do ordain as follows:

SECTION ONE: Division 7, Sections 2-559 through 2-563 of the Municipal Code is hereby amended to read as follows:

DIVISION 7 - ORDINANCE COMMITTEE

2-559 Creation; purpose. The Ordinance Committee of the City of Tomah shall be advisory to the Common Council to assist in the performance of its duties to the City on an as needed basis. It shall serve as a venue to thoroughly investigate, debate, and make recommendations to the Common Council involving regulatory issues, including but not limited to the review and modification/repeal of current ordinances, establishment of new ordinances, as well as enforcement.

2-560 Membership. The Ordinance Committee shall consist of five (5) members. Two members of the Common Council and three (3) citizen members (one of which shall be an owner of a business within City limits). A SET Chairperson, or his/her designee, as well as the City Attorney and Mayor, shall be ex-officio members.

2-561 Term of Members. The term of citizen members shall be two (2) years each, and the terms of the aldermanic member shall be one year. Members shall be appointed by the Mayor, upon approval by the Common Council.

2-562 Meetings and Quorum. Meetings shall be held at the direction of the Mayor or Common Council. Three (3) members shall constitute a quorum.

2-563 Powers and Duties. The Ordinance Committee shall serve in an as needed capacity and, when specifically tasked, shall have the following powers and duties:

- A. To serve as a liaison between the community and the common council on ordinance regulatory issues that are within the authority of the City Council.

- B. To discuss and review proposed modifications to ordinances and make recommendations to the Common Council regarding the necessity and appropriateness of the same.

Common Council – September 17, 2024

SECTION TWO: All ordinances in conflict with the foregoing are hereby repealed.

SECTION THREE: This ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, Clerk

READ:
PASSED:
PUBLISHED:

Tomah K9 Unit Officer Vehicle Policy Change approval
Motion by Glynn, second by Scholze, to change the limit to the K9 officer vehicle policy to 50 miles from 15 miles. Motion carried.

K9 Training – Canada
Motion by Yarrington, second by Glynn, to approve the K9 officer training in Canada in early 2025. Motion carried.

Ordinance Re-Zoning Property Parcel #286-02651-5301
Motion by Zabinski, second by Glynn, to waive the first verbatim reading of the ordinance Re-Zoning Property Parcel #286-02651-5301. Motion carried.
Motion by Zabinski, second by Glynn, to waive the second verbatim reading of the ordinance Re-Zoning Property Parcel #286-02651-5301. Motion carried.
Motion by Zabinski, second by Pater, to adopt the ordinance rezoning property parcel #286-025651-5301. Motion carried.

Ordinance No.

ORDINANCE RE-ZONING PROPERTY
PARCEL #286-02651-5301

The Common Council of the City of Tomah, do ordain as follows:

SECTION ONE:
After Petition, Notice and Public Hearing in accordance with the Wisconsin Statutes and City of Tomah Ordinance, the Common Council of the City of Tomah hereby re-zone the following described real estate from A-1 Agricultural to R3-Multifamily Residential District.

PART OF THE SW1/4-SE1/4 AND PART OF THE SE ¼-SE ¼, SECTION 21, T18N-R1W, CITY OF TOMAH, MONROE COUNTY, WISCONSIN

SECTION TWO:
All Ordinances or part thereof in conflict with the foregoing are hereby repealed.

SECTION THREE:
This Ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, City Clerk

READ:
PASSED:
PUBLISHED:

Appointment of Dean Peterson, Nellie Pater, Shawn Zabinski, Paul Dwyer, Chris Popp, Molly Powell, and Penny Precour to the Ad Hoc Committee to research a City Administrator
Motion by Pater, second by Zabinski, to approve the mayor’s appointment of Dean Peterson, Nellie Pater, Shawn Zabinski, Chris Popp, and Penny Precour to the ad hoc committee to research a City Administrator and to appoint Molly Powell and Paul Dwyer as ex-officio. Motion carried.

Appointment of James Stroh II, Mike Webber, Helene Stein, John Glynn, Patrick Devine, Paul Dwyer, and Penny Precour to the Ordinance Committee
Motion by Pater, second by Zabinski, to approve the mayor’s appointment of James Stroh, Mike Webber, Helene Stein, John Glynn, Patrick Devine, Paul Dwyer, and Penny Precour to the Ordinance Committee. Motion carried. The SET Chairperson, Mayor, and City Attorney will be ex-officio. Motion carried.

Common Council – September 17, 2024

Approval of Disallowance of Claim

Motion by Peterson, second by Pater, to approve the disallowance of the claim against the City of Tomah by Madison Schams. Motion carried.

Approval of Election Results August 12, 2024

Motion by Yarrington, second by Zabinski, to approve the election results for the August 12, 2024 election as presented. Motion carried.

Adjourn to closed session pursuant to Wis Stat. § 19.85(1)(c) Considering employment, promotion, compensation, or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility

Motion by Zabinski, second by Yarrington, to adjourn to closed session for the agenda item stated above. The meeting adjourned at 7:06. p.m.

The meeting resumed from closed session at 7:29 p.m.

Action on Closed session (if Necessary)

Motion by Peterson, second by Yarrington to authorize the clerk to recruit for the open City Treasurer position and to hire a temporary professional service for 10-15 hours per week in the interim, and to authorize payment to Molly Powell to work on an hourly basis as needed during the transition period. Motion carried.

ADJOURN

Motion by Peterson, second by Pater, to adjourn. The meeting was adjourned at 7:33 p.m.

Mayor Paul Dwyer

Rebecca Weyer, City Clerk

MINUTES FOR COMMON COUNCIL JUNE 18, 2024

A Common Council was held on **Tuesday, June 18, 2024 at 6:30 PM** in the Council Chambers at City Hall, 819 Superior Avenue, Tomah, WI.

Call to Order, Pledge of Allegiance, Roll Call

The meeting was called to order by Mayor Paul Dwyer at 6:30 p.m. Roll call was taken after the Pledge of Allegiance. Present: Paul Dwyer, Travis Scholze, Richard Yarrington, Shawn Zabinski, John Glynn, Patrick Devine, Nellie Pater, and Dean Peterson. Absent: Nicole Hart. Also present: Tim Adler, Irma Keller, Pam Buchda, Becki Weyer, Kirk Arity, Joe Protz, Tina Thompson, and Molly Powell. The meeting was available via Zoom and was recorded by Hagen Sports Network. All motions are unanimously approved unless otherwise notated.

ANYONE DESIRING TO APPEAR TO COUNCIL

Mark Tralmer, the owner of a downtown business, appeared before the Council to request the city do more for downtown business owners; specifically, assistance with beautification of the downtown. He also voiced concerns about the city needs to do more for small businesses thrive in the downtown area. He also gave his opinion on the need for a city administrator, and his opinions on how the city should not be enforcing the sign ordinance.

Jim Stroh from 1022 Superior Ave. and owner of Stroh’s barbershop appeared to voice his dissatisfaction with the enforcement of the sign ordinance in the downtown area and his feelings that the ordinance is being enforced unfairly.

Jim Weinzetl from 115 Schaller St. and the executive director of the Tomah Area Historical Museum appeared to voice his support for keeping the parade on Superior Ave. due to lack of bathrooms on Butts Ave. and the reduction of traffic to the museum if the parade is moved.

Don Roscovious from 524 Kilbourne Ave appeared to voice his support for keeping the parade in the downtown area due to concerns about parking and bathrooms and his opinion that it will not be well attended.

Troy Gilson from 1130 Charles Dr. appeared to voice his opinion about keeping the parade in the downtown area as it supports his downtown business.

Sue Hackett, the owner of the Brick Sip Haus appeared to speak to the Council about the Downtown Thursday Nights location and her support of keeping DTN and the parade in the downtown area as it supports her business.

Michael Weber from 1320 Lakeview Drive appeared to voice his opinion on keeping the parade downtown due to tradition. He also agreed that the signs should not be enforced downtown for business owners.

Mayor

The Mayor said it has been a busy month with issues and phone calls from residents. He thanked the citizens who came to the Council meeting to voice their concerns.

Discussion on Reinstatement of City Administrator Position and Dissolution of the Senior Executive Team

With the attrition of the Building Inspector, the mayor said that it is a good potential time to hire an Administrator who could take on some of the tasks of the previous Building Inspector/Zoning Administrator. The Mayor previously met with members of SET who said they will support the mayor’s decisions.

Nellie Pater stated that the SET was not intended to be permanent and that with the growth of Tomah, the city may have to look at things in a different light. She commended the current SET but is looking towards future growth. Yarrington stated that SET has done a wonderful job and is in favor of keeping the SET unless a highly qualified candidate can be found.

John Glynn stated that the Council has failed to let the public know what the SET has done for the city, and why it was put into place. That SET took over the duties of the City Administrator when previous administrators did not work out. He praised the SET for overcoming the large budget shortfalls in the past three years, encouraging and promoting teamwork throughout the city, and appreciated their contributions to the city during a trying time. He said that if the Council decides to hire a City Administrator, they need to come up with a better hiring plan than used in the past.

Travis Scholze shared his negative experience working with previous City Administrators and the high costs associated with them. He defended the SET against the comments that things have not been getting done in the city. He stated the SET does a fabulous job.

Zabinski stated that SET has done a phenomenal job and stepped up to the plate when asked. She would like to see more economic growth and opines they would see more of that with a City Administrator. She also talked about accountability and there should be a check and balance system.

The Mayor stated that the City Administrator position is what he believes to be the best idea. He said he is not stating that the SET is doing a bad job and stated it has been successful. He said that forward thinking and considering options is important.

Parade and Downtown Thursday Night Location Discussion

Glynn stated that he appreciates Police Chief Scott Holum for producing a plan to modify the parade in the interest of safety due to the cross traffic in the downtown area. He likes the idea of the parade downtown, but his opinion is that the staging area for the parade is the majority of the problem. He suggested that the parade staging area be moved to Williams St. and should be coordinated with Downtown Thursday nights. Pater stated that the businesses downtown want to keep the parade downtown to support their businesses, and we need to find a way to make the current area safer without moving it. She also opined that there is a problem with parking and side streets during Downtown

Common Council – June 18, 2024

Thursday Nights. She stated she does not have a problem with DTN being downtown but the safety of the parking, people, and semi-trailers during the event. She also voiced concerns about people leaving the area with alcoholic beverages and driving after drinking. She asked that the Chamber find a way to increase the safety and monitoring of this event. Zabinski stated she thinks the non-profits need to get more involved to help with street security. The Mayor gave his opinion that the Council should listen to most people who he has spoken with and keep the parade downtown, despite the security concerns. He also opined that more business owners farther down the road should be included. The mayor asked Kirk Arity if it would be possible to route traffic down Jackson Street and to Butts Ave instead, which Arity affirmed could be looked at as a potential change.

Discussion on Direction for Enforcement of Signage and/or Modification of City Ordinance

Glynn stated that Superior Ave is a State Highway, and the city and its citizens are required to meet state statutes for signs and there is not much that the city can do about it. Pater stated that signs people should not put signs on the boulevard and should be fined if they do. Arity was recognized by the Mayor, and stated there are perceived variances in enforcement due to different property lines. Scholze stated it is their duty to enforce the ordinances of the city, state, and country, and expressed that if the public is unhappy with the laws, they should look at amendments, rather than persecute city employees for doing their jobs.

Jim Stroh was recognized by the Council for speaking. He claimed that the law has never been enforced in the past and there is such a thing as discretionary enforcement and that the state is not enforcing it so the city should not either.

The Mayor recognized Mike Weber to speak and again give his opinion that enforcement of this issue takes away from the city and its business owners.

The Mayor stated that when he ran for the position, he wanted the city to be more business friendly and signs do not hurt a thing and wants to know why it is being enforced now and that officials need to use common sense and stope impeding businesses from advertising with their signs on city sidewalks.

The Mayor recognized Don Roscovious to speak and stated that the Tractor Pull sign over the road should not be allowed, that he was complaining so it should be taken care of tomorrow.

The Mayor recognized Michael Weber to speak, and he said signs should be allowed all over the city, not just on the state highways.

The Council spoke at length at options to follow the law but still assist businesses.

Motion by Zabinski, second by Pater, to have the City Attorney look at state statues and the current ordinance, and bring back suggestions and/or an amendment, and for city staff to defer complaints and enforcement other than in the center median on Superior Ave., until addressed at the next council meeting. Motion carried.

Public Safety May Monthly Report

Chief Adler provided a monthly written report. He said that the Fire/EMS departments are working with the Tomah Police Department on the upcoming Downtown Thursday Nights and the Independence Day parade. They are still waiting for the completion of the ambulance remount and anticipating a July completion. They are still waiting for insurance company information on the downtown building fires.

Library

Director Keller said there were 6,360 total checkouts from the library last month. She discussed the upcoming events and the new books at the library. Keller directed the public to the library’s website at <https://tomahpubliclibrary.org/>.

Senior & Disabled Services Department monthly report

Buda provided a monthly written report. The Senior Center will be closed on July 4th and Friday July 5th, but the meal site will be open.

May 2024 Building Inspection Permit and Code Enforcement Reports

Written Building Inspection and Code Enforcement Reports were provided.

CONSENT AGENDA:

Motion by Zabinski, second by Scholze, to approve the following consent agenda:

- A. Renewal of “Class B” Liquor, Class “B” Fermented Malt Beverage, and “Class C” Wine Beverage Licenses
- B. Special Event Outdoor Cabaret Licenses for North American Squirrel Association for Winnebago Park located on Brandon St. in Tomah, WI for an event on July 6th of 2024.
- C. April 30, 2024 Cash and Investments Report
- D. May 31, 2024 Cash and Investments Report

Motion carried.

Approval of Tomah Transit Procurement Policy

Common Council – June 18, 2024

Motion by Glynn, second by Yarrington, to approve the Tomah Transit procurement policy as submitted. Motion carried.

Resolution Authorizing Payment of Monthly Bills

Motion by Zabinski, second by Scholze, to approve the resolution authorizing payment of monthly bills in the amount of \$1,217,846.24. Motion carried.

RESOLUTION NO : _____

RESOLUTION AUTHORIZING
PAYMENT OF MONTHLY BILLS

Be it resolved by the Common Council of the City of Tomah that the Committee of the Whole has reviewed the monthly bills and recommends the City Council approve said bills as follows:

1. Pre-Paid Checks:	2024	\$257,672.67	Check #'s:	144916 144973	144951 145060
2. Payroll:		\$320,713.12	Dir Dep #'s:	9302612	9302837
3. Wire/ACH Transfers:		\$633,242.39			
4. Invoices:		\$6,218.06			
Total:		<u>\$1,217,846.24</u>			

Mayor

Clerk

Requested by: Finance Department

Submitted by: Committee of the Whole

June 17, 2024

Alternate parade route Discussion and Decision

At the Committee of the Whole meeting in May, Chief Scott Holum presented an alternative parade route due to concerns about public safety using the current downtown route. The alternate route would travel down Butts Ave. Tina Thompson told the council they could mitigate safety issues by paying for extra security during the event. Chief Adler suggested moving the staging area to the Tomah Middle School and use Clark Street to enter the parade.

Motion by, second by Glynn to move the staging area of the parade to Williams St. There were no aye votes and seven (7) no votes. Motion failed.

Motion by Peterson, second by Pater, to leave the parade route in the downtown area on Superior Ave., and let staff determine the best route for staging. Motion carried.

Ordinance Amending Chapter 16 of the City of Tomah Ordinances

Motion by Glynn, second by Zabinski, to waive the first verbatim reading of the Ordinance amending Chapter 16 of the City of Tomah Code of Ordinances. Motion carried

Motion by Scholze, second by Yarrington, to waive the second verbatim reading of the ordinance amending Chapter 16 of the City of Tomah Code of Ordinances. Motion carried.

Motion by Scholze, second by Yarrington, to adopt the ordinance amending chapter 16 of the City of Tomah Code of Ordinances. Motion carried.

ORDINANCE NO. _____

Ordinance Amending Chapter 16 of the City of Tomah Municipal Code

The Common Council of the City of Tomah, Monroe County, Wisconsin, do ordain as follows:

SECTION ONE: Section 16-1 Joint action emergency government is hereby amended to read as follows:

A joint action ordinance of the county board providing for a county-municipal joint action emergency government plan of organization adopted by the county board on September 6, 1972, has been ratified and accepted by the city. This ratification and acceptance of the Joint Action Ordinance shall constitute a mutual agreement between the city and the county as provided by section VIII of the Joint Action Ordinance, and as amended by Res. No. 04-24-04 on April 24, 2024.

SECTION TWO: 16-2 County emergency management coordinator is hereby amended to read as follows:

The county emergency management coordinator, appointed and employed by the county board as provided in the referred-to ordinance, as amended, is hereby designated and appointed emergency management coordinator for the city, subject to the duties, conditions, and provisions set forth in the state statutes and the Monroe County Joint Action Emergency Management Ordinance, as amended. The decision-making authority as it relates to emergency responses, which are not otherwise considered emergency management as defined in sec. 323.02(8) of the state statutes, shall remain with the City.

SECTION THREE: All ordinances in conflict with the foregoing are hereby repealed.

SECTION FOUR: This ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, Clerk

READ:

PASSED:

PUBLISHED:

Approval of amendment of Recreation Park Emergency Operations Plan

Motion by Peterson, second by Zabinski, to approve the amendment to the Recreation Park Emergency Operations Plan. Motion carried.

Approval of Contract Between the City of Tomah and General Engineering for Inspection Services

Motion by Scholze, second by Peterson, to approve the contract between the City of Tomah and General Engineering for Inspection Services. Motion carried.

ORDINANCE NO. _____

Ordinance Amending Chapter 16 of the City of Tomah Municipal Code

The Common Council of the City of Tomah, Monroe County, Wisconsin, do ordain as follows:

SECTION ONE: Section 16-1 Joint action emergency government is hereby amended to read as follows:

A joint action ordinance of the county board providing for a county-municipal joint action emergency government plan of organization adopted by the county board on September 6, 1972, has been ratified and accepted by the city. This ratification and acceptance of the Joint Action Ordinance shall constitute a mutual agreement between the city and the county as provided by section VIII of the Joint Action Ordinance, and as amended by Res. No. 04-24-04 on April 24, 2024.

SECTION TWO: 16-2 County emergency management coordinator is hereby amended to read as follows:

The county emergency management coordinator, appointed and employed by the county board as provided in the referred-to ordinance, as amended, is hereby designated and appointed emergency management coordinator for the city, subject to the duties, conditions, and provisions set forth in the state statutes and the Monroe County Joint Action Emergency Management Ordinance, as amended. The decision-making authority as it relates to emergency responses, which are not otherwise considered emergency management as defined in sec. 323.02(8) of the state statutes, shall remain with the City.

SECTION THREE: All ordinances in conflict with the foregoing are hereby repealed.

SECTION FOUR: This ordinance shall take effect upon passage and publication.

Paul Dwyer, Mayor

ATTEST:

Rebecca Weyer, Clerk

READ:

PASSED:

PUBLISHED:

Common Council – June 18, 2024

Resolution Authorizing the Issuance and Establishing Parameters for the Sale of Not to Exceed \$2,640,000 General Obligation Promissory Notes, Series 2024A

Motion by Glynn, second by Zabinski, to approve the Resolution Authorizing the Issuance and Establishing Parameters for the Sale of Not to Exceed \$2,640,000 General Obligation Promissory Notes, Series 2024A. Motion carried.

RESOLUTION NO. 2024-06-18-11

RESOLUTION AUTHORIZING THE ISSUANCE AND ESTABLISHING PARAMETERS FOR THE SALE OF NOT TO EXCEED \$2,640,000 GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2024A

WHEREAS, on May 28, 2024, the Common Council of the City of Tomah, Monroe County, Wisconsin (the "City") adopted a resolution (the "Set Sale Resolution"), providing for the sale of General Obligation Promissory Notes, Series 2024A (the "Notes") for public purposes, including paying the cost of facility improvements, including to the Police Station, City Hall, Street Shop and Senior Center, street improvements, parks improvements, including for Tomah Ice Center, the acquisition of equipment for the Parks and Recreation Department and the acquisition of two squad cars for the Police Department (collectively, the "Project");

WHEREAS, the Common Council hereby finds and determines that the Project is within the City's power to undertake and therefore serves a "public purpose" as that term is defined in Section 67.04(1)(b), Wisconsin Statutes;

WHEREAS, the City is authorized by the provisions of Section 67.12(12), Wisconsin Statutes, to borrow money and issue general obligation promissory notes for such public purposes;

WHEREAS, it is the finding of the Common Council that it is in the best interest of the City to direct its financial advisor, Ehlers & Associates, Inc. ("Ehlers"), to take the steps necessary for the City to offer and sell the Notes at public sale and to obtain bids for the purchase of the Notes; and

WHEREAS, in order to facilitate the sale of the Notes in a timely manner, the Common Council hereby finds and determines that it is necessary, desirable and in the best interest of the City to delegate to each of the City Treasurer and the City Clerk (each an "Authorized Officer") of the City the authority to accept on behalf of the City the bid for the Notes that results in the lowest true interest cost for the Notes (the "Proposal") and meets the terms and conditions provided for in this Resolution by executing a certificate in substantially the form attached hereto as Exhibit A and incorporated herein by reference (the "Approving Certificate").

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Authorization and Sale of the Notes; Parameters. For the purpose of paying costs of the Project, the City is authorized to borrow pursuant to Section 67.12(12), Wisconsin Statutes, the principal sum of not to exceed TWO MILLION SIX HUNDRED FORTY THOUSAND DOLLARS (\$2,640,000) upon the terms and subject to the conditions set forth in this Resolution. Subject to satisfaction of the condition set forth in Section 17 of this Resolution, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the financial institution that submitted the Proposal (the "Purchaser") for, on behalf of and in the name of the City, Notes aggregating the principal amount of not to exceed TWO MILLION SIX HUNDRED FORTY THOUSAND DOLLARS (\$2,640,000). The purchase price to be paid to the City for the Notes shall not be less than 98.75% nor more than 107.0% of the principal amount of the Notes.

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Section 2. Terms of the Notes. The Notes shall be designated "General Obligation Promissory Notes, Series 2024A"; shall be issued in the aggregate principal amount of up to \$2,640,000; shall be dated as of their date of issuance; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall mature or be subject to mandatory redemption on the dates and in the principal amounts set forth below, provided that: (a) the Authorized Officer shall determine the amount of principal due in the year 2025 so that the amount the City is required to levy in the year 2024 to pay debt service on all general obligation debt, including the Notes, in the year 2025 will be approximately \$2,065,000; (b) the principal amount of each maturity or mandatory redemption amount in the years 2026-2044 may be increased or decreased by up to \$50,000 per maturity or mandatory redemption amount and (c) the aggregate principal amount of the Notes shall not exceed \$2,640,000. The schedule below assumes the Notes are issued in the aggregate principal amount of \$2,640,000.

Date	Principal Amount
05-01-2025	\$175,000
05-01-2026	120,000
05-01-2027	120,000
05-01-2028	120,000
05-01-2029	120,000
05-01-2030	115,000
05-01-2031	120,000
05-01-2032	120,000
05-01-2033	125,000
05-01-2034	125,000
05-01-2035	125,000
05-01-2036	130,000
05-01-2037	130,000
05-01-2038	135,000
05-01-2039	135,000
05-01-2040	135,000
05-01-2041	140,000
05-01-2042	145,000
05-01-2043	150,000
05-01-2044	155,000

Interest shall be payable semi-annually on May 1 and November 1 of each year commencing on May 1, 2025. The true interest cost on the Notes (computed taking the Purchaser's compensation into account) shall not exceed 5.25%. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board.

Section 3. Redemption Provisions. The Notes shall be subject to optional redemption as set forth on the Approving Certificate. If the Proposal specifies that certain of the Notes shall be subject to mandatory redemption, the terms of such mandatory redemption shall be set forth on an attachment to the Approving Certificate labeled as Schedule MRP. Upon the optional redemption of any of the Notes subject to mandatory redemption, the principal amount of such Notes so redeemed shall be credited against the mandatory redemption payments established in the Approving Certificate in such manner as the City shall direct.

Common Council – June 18, 2024

Section 4. Form of the Notes. The Notes shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit B and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Notes as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2024 through 2043 for the payments due in the years 2025 through 2044 in the amounts as are sufficient to meet the principal and interest payments when due.

(B) Tax Collection. So long as any part of the principal of or interest on the Notes remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Notes, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Notes when due, the requisite amounts shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There shall be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for General Obligation Promissory Notes, Series 2024A" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Notes is fully paid or otherwise extinguished. There shall be deposited into the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Notes; (ii) any premium which may be received by the City above the par value of the Notes and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Notes when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Notes when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

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(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Notes until all such principal and interest has been paid in full and the Notes canceled; provided (i) the funds to provide for each payment of principal of and interest on the Notes prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Notes may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Notes as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Notes have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Notes; Segregated Borrowed Money Fund. The proceeds of the Notes (the "Note Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Notes into the Debt Service Fund Account created above) shall be deposited into a special fund (the "Borrowed Money Fund") separate and distinct from all other funds of the City and disbursed solely for the purpose or purposes for which borrowed Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose or purposes for which the Notes have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose(s) shall be deposited in the Debt Service Fund Account.

Section 8. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the City, charged with the responsibility for issuing the Notes, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Notes to the Purchaser which will permit the conclusion that the Notes are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Compliance with Federal Tax Laws. (a) The City represents and covenants that the projects financed by the Notes and the ownership, management and use of the projects will not cause the Notes to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Notes including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the

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proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Notes shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Notes provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Notes and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Designation as Qualified Tax-Exempt Obligations. The Notes are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265 of the Code, relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Section 11. Execution of the Notes; Closing; Professional Services. The Notes shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Notes may be imprinted on the Notes in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Notes, at least one of the signatures appearing on each Note shall be a manual signature. In the event that either of the officers whose signatures appear on the Notes shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Notes and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Notes, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Notes is hereby ratified and approved in all respects.

Section 12. Payment of the Notes; Fiscal Agent. The principal of and interest on the Notes shall be paid by Bond Trust Services Corporation, Roseville, Minnesota, which is hereby appointed as the City's registrar and fiscal agent pursuant to the provisions of Section 67.10(2), Wisconsin Statutes (the "Fiscal Agent"). The City hereby authorizes the Mayor and City Clerk or other appropriate officers of the City to enter into a Fiscal Agency Agreement between the City and the Fiscal Agent. Such contract may provide, among other things, for the performance by the Fiscal Agent of the functions listed in Wis. Stats. Sec. 67.10(2)(a) to (j), where applicable, with respect to the Notes.

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Section 13. Persons Treated as Owners; Transfer of Notes. The City shall cause books for the registration and for the transfer of the Notes to be kept by the Fiscal Agent. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Any Note may be transferred by the registered owner thereof by surrender of the Note at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Note surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Note or Notes necessary to effect any such transfer.

Section 14. Record Date. The 15th day of the calendar month next preceding each interest payment date shall be the record date for the Notes (the "Record Date"). Payment of interest on the Notes on any interest payment date shall be made to the registered owners of the Notes as they appear on the registration book of the City at the close of business on the Record Date.

Section 15. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations, which the City Clerk or other authorized representative of the City is authorized and directed to execute and deliver to DTC on behalf of the City to the extent an effective Blanket Issuer Letter of Representations is not presently on file in the City Clerk's office.

Section 16. Payment of Issuance Expenses. The City authorizes the Purchaser to forward the amount of the proceeds of the Notes allocable to the payment of issuance expenses to a financial institution selected by Ehlers at Closing for further distribution as directed by Ehlers.

Section 17. Condition on Issuance and Sale of the Notes. The issuance of the Notes and the sale of the Notes to the Purchaser are subject to approval by an Authorized Officer of the principal amount, definitive maturities, redemption provisions, interest rates and purchase price for the Notes, which approval shall be evidenced by execution by an Authorized Officer of the Approving Certificate.

The Notes shall not be issued, sold or delivered until this condition is satisfied. Upon satisfaction of this condition, the Authorized Officer is authorized to execute a Proposal with the Purchaser providing for the sale of the Notes to the Purchaser.

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Common Council – June 18, 2024

Section 18. Official Statement. The Common Council hereby directs an Authorized Officer to approve the Preliminary Official Statement with respect to the Notes and deem the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by the Authorized Officer or other officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or final Official Statement to be distributed to the Purchaser.

Section 19. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Notes, to enter into a written undertaking (the "Undertaking") if required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Notes or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Notes).

To the extent required under the Rule, the Mayor and City Clerk, or other officer of the City charged with the responsibility for issuing the Notes, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 20. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Notes in the Record Book.

Section 21. Bond Insurance. If the Purchaser determines to obtain municipal bond insurance with respect to the Notes, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Note proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Notes by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Note provided herein.

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Section 22. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded June 18, 2024.

ATTEST: Paul Dwyer
Mayor

Rebecca Weyer
City Clerk

(SEAL)

ADJOURN
Motion by Scholze, second by Peterson, to adjourn. Motion carried. The meeting was adjourned at 8:57 p.m.

Mayor Paul Dwyer

Attest: Rebecca Weyer, City Clerk

Wisconsin Open Meetings Law

Fact Sheet No. 1

Local Government Education Program

*Revised by Philip J. Freeburg, J.D., Local Government Educator, University of Wisconsin-Extension
Local Government Center*

April 2020

Policy (Wis. Stat. § 19.81)

The Open Meetings Law begins by recognizing that a representative government depends on an informed electorate. An informed electorate needs access to information. The Wisconsin State Legislature declares that the policy of the Open Meetings Law is to:

- Enable the public to have “the fullest and most complete information regarding the affairs of government as is compatible with the conduct of government business;”
- Ensure that meetings of governmental bodies are held in places reasonably accessible to the public; and
- Ensure that such meetings are open to the public unless otherwise expressly provided by law.

The Open Meetings Law is to be “liberally construed” (i.e. broadly interpreted) to achieve the purpose of open government.¹ The law ensures that there is public access and open decision making. Open decision making includes the information gathering stages, discussions, and voting.²

The policy provisions of the Open Meetings Law are not idle rhetoric. Almost all court decisions enforcing the law begin by invoking the explicit policies stated in Wis. Stat. § 19.81.³ To implement these policies, the law requires advance notice of meetings and that those meetings be open and accessible to the public. Closed sessions are limited to exceptions specifically provided by statute.⁴

Coverage

“Governmental Bodies” subject to the Open Meetings Law

The definitions in the Open Meetings Law not only explain terms used in the statute, but they also determine which bodies are covered and what gatherings constitute a “meeting” under the law. A “governmental body” under the Open Meetings Law includes any state or local agency, board, commission, committee and council created by law, ordinance, rule or order.⁵ “Rule or order” includes motions, resolutions, formal and informal directives by a governmental body or officer that sets up a body and assigns it duties.⁶ At the local level, bodies covered include county, village, and town boards, city councils,

school boards, as well as all their committees, commissions, and boards. It is how the body is created, not its members or authority that is the determining factor. Thus, a citizen study or advisory committee created by a county board is considered a governmental body.⁷

A committee, including one set up by administrative staff, could be a governmental body under the Open Meetings Law even if it is not a typical sub-unit of the city council, town or county board. If the committee takes the form of a body with defined membership, is created by "rule," and has the power to take collective action, then it is considered a governmental body under the Open Meetings Law.⁸ The key element is whether it is created by "rule." A rule can be a statute, ordinance, resolution, or policy, including handbooks or by-laws, that creates or authorizes the committee. The Wisconsin Counties Association and the League of Wisconsin Municipalities recommend reviewing ordinances, by-laws, policies, and handbooks that are approved by the county or village board or city council to determine which committees are created by rule.⁹

In addition, the term "governmental body" under the law includes governmental and quasigovernmental corporations, as well as other specified entities.¹⁰ A governmental or quasigovernmental corporation includes corporations created by the legislature or by other governmental bodies under statutory authorization. Quasi-governmental corporations are not just those created by a governmental body, but also may be corporations that resemble governmental corporations.¹¹ Determining if an entity resembles a governmental corporation depends on the total facts and circumstance about the entity and is determined on a case-by-case basis.¹² Thus no single factor is determinative, but courts consider several factors: (1) whether the entity performs or serves a public function, as opposed to a purely private function, even if the public function is merely recommending action to a governmental body;¹³ (2) the degree of public funding;¹⁴ (3) government access to the entity's records;¹⁵ (4) express or implied representations that the entity is affiliated with government;¹⁶ and (5) the extent government controls the entity's operation, such as appointing directors, officers or employees, or officials serving in those positions.¹⁷

If a citizen body creates itself by its own authority (independent of any governmental unit or statute, ordinance, rule or order) and sets its own charter, bylaws, membership requirements, or rules, most likely it is not a quasi-governmental corporation. To constitute a governmental corporation or quasi-governmental corporation, the organization must in fact be incorporated, and not another type of entity such as a nonprofit association.¹⁸

The Open Meetings Law still provides that a local governmental body conducting collective bargaining is not subject to the law. However, this is not as significant a provision of the law as it was before the Act 10 public union reforms. Nonetheless, notice of reopening a collective bargaining agreement must be given under the Open Meetings Law and final ratification of the agreement must be done in open session under such law.¹⁹

"Meetings" under the Open Meetings Law

A meeting is defined as a gathering of members of a governmental body for the purpose of exercising responsibilities and authority vested in the body.²⁰ The courts apply a purpose test and a numbers test to determine if a meeting occurred. The law applies to a meeting when both the numbers and purpose tests are met.²¹

Purpose and Numbers Tests

The purpose test is met when there is information gathering, discussion, or decision-making on matters over which the governmental body has authority. Social or chance gatherings where there is no discussion

on the topics over which the body has jurisdiction are excluded. The numbers test asks if there are enough members to determine the outcome of an action. The statute presumes that a gathering of one-half of the membership is a meeting, because one-half could determine the outcome of a vote by preventing a majority in favor of a proposal. Thus, less than a majority could determine the outcome of an issue. This is called a "negative quorum," and can meet the numbers test. Use caution when gathering with other members, because less than half can also be a negative quorum. There could be less than half a city council, or county board gathered together, but a quorum or a negative quorum of a committee may exist. Votes requiring a two-thirds majority, like a budget amendment, can meet the numbers test if one-third plus one of the members are together discussing the amendment.²²

There are other special cases where a meeting exists for the purposes of the law. A series of conversations, phone calls, or emails to "line up votes" or conduct other business is known as a "walking quorum," and violates the law.²³ Such conduct addresses the business of the governmental body without public notice, information, or participation. Telephone conference calls among members are also considered a meeting when the two tests are met and therefore, must be conducted in such a manner as to be accessible to the public.²⁴

Emails, instant messages, blogs, social media sites, and other electronic message forms could also create a meeting. While no court decision has clarified the Open Meetings Law on this issue, the state attorney general's office advises that if the communications are like an in-person discussion with a prompt exchange of viewpoints by members, then it raises the possibility of an Open Meetings Law violation. If the communication is more like written a communication on paper, which is not an Open Meetings Law violation, then the communication is less likely a violation. To avoid the risk of excluding the public and violating the law, the attorney general's office discourages the use of electronic messages between members to discuss issues within the authority of the body. Certainly, avoid the "reply" or "reply all" email functions.²⁵

If enough members of one government body to satisfy the numbers test and attend the meeting of another government body in an effort to gather information on a subject over which the body has authority, a meeting under the law may occur. Unless the gathering is by chance, it should be treated as a meeting of both bodies and notice must be given.²⁶ The attorney general's office recommends giving notice of when a body is attending the meeting of another body and to be as specific in the notice as possible. It is further recommended to avoid stock or boilerplate language such as that "a possible quorum may attend." Instead, be specific as to which bodies will attend the other's meeting and include when it is scheduled to occur.²⁷

Not all gatherings of members become a meeting under the law. As previously mentioned, the Open Meetings Law does not require notice for social gatherings, gatherings by chance, or at a conference if there is no business conducted (that is, the purpose test is not met).

The place of meeting must be reasonably accessible to the public, including persons with disabilities.²⁸ Accordingly, the facility chosen for a meeting must be sufficient for the number of people reasonably expected to attend.²⁹

Public Notice Requirements

If the public did not know the subjects of a governmental meeting or were not made aware of its location, date, and the time of the meeting, a meeting open to the public would be almost meaningless. Thus, public notice is required before every governmental meeting.³⁰ Further, separate notices must be given for each meeting.³¹

Effective March 2020, the Legislature changed the Open Meetings Law to require that Open Meetings Law notice to the public shall use one of three specific methods.

1. Posting a notice in at least 3 public places,
2. Posting in a least one public place and placing a notice electronically on the governmental body's Internet site, or
3. By paid publication in a news medium.³²

It is further required that each posting place or publication be "likely to give notice to person's affected."³³ The Open Meetings Law provides that paid published news medium notice is one method notice methods, but other statutes may require a published notice. If a paid newspaper publication is used to give notice, confirmation that it was in fact published in a timely fashion should be secured before the meeting convenes.³⁴

The Open Meetings Law also requires providing notice to the news media.³⁵ Notice may be in writing, by telephone, voice mail, fax or email. Written methods are best for accuracy and because doing so creates a record of the notice that can later be used as proof of compliance with the notice to news media requirement. Notice must be given to any news media that has made a written request, as well as to the official newspaper for the governmental unit. If there is no official newspaper, then notice must be sent to the news medium that is likely to give notice in the area. The newspaper does not have to print the notice and you do not have to pay to publish the notice, but you must send the notice to the newspaper whether they publish it or not.³⁶

The notice must state the time, date, and place of the meeting. If a closed session is anticipated, the notice must include the item to be considered and a citation to the particular statute justifying the closed session (see "Permitted Exemptions for Holding Closed Sessions," below).³⁷

The notice must also state the subject matter of the meeting. Discussion on any action or matter is limited to the topics specified in the notice (there is a limited exception for a public comment period, which is discussed below). The content of the notice must be "reasonably likely to apprise the public" of what will be addressed at the meeting.³⁸ In other words, the subject matter must be specific enough to let people interested in a subject matter know that it will be addressed at the meeting.

Courts reviewing and enforcing compliance with the Open Meetings Law will determine if the notice is specific enough on a case-by-case basis. That means what may be adequate subject matter notice in one instance may not be adequate in a different instance. For example, a notice stating, "employee contracts" could be adequate, but if it includes the contract of a controversial employee, then "employee contracts" would not be specific enough to satisfy the Open Meetings Law.³⁹

The Wisconsin Supreme Court gave three factors to consider when determining if notice of subject of a meeting is reasonably specific:

1. The burden of providing more detailed notice. This factor balances specificity with the efficient conduct of public business.
2. Whether the subject matter is of particular interest to the public. This factor considers the number of people interested and the intensity of interest.

3. Whether the subject involves a non-routine action that the public would be unlikely to anticipate. This factor recognizes there may be less need for specificity with routine matters and more need for specificity where novel issues are involved.⁴⁰

The attorney general's office advises that any generic notice that contains expected reports or comments by a member, official, or presiding officer should state the topics that will be addressed in the report. The attorney general's office further advises that generic subjects, such as "old business," "new business," "agenda revisions," or "such other matters as authorized by law," and fail to include further subject matter identification are inherently insufficient notice.⁴¹

A separate notice is required before each meeting of the governmental body. A general notice that is meant to cover a period of time (i.e., a week, a month) is not allowed. Notice must be given at least 24 hours prior to the meeting. The Open Meetings Law says that for "good cause" a shorter time for notice may be given; however, it must be at least two hours in advance of the meeting. Forgetting the notice or negligence is not good cause. Remember that the purpose of the law is a well-informed public, so any doubts about good cause should be resolved in favor of the public.

The presiding officer of the governmental body is responsible to give notices under the Open Meetings Law, or someone he or she designates.⁴² Because including the meeting agenda into the notice is the most common means of providing notice of the subject matter of the meeting, this part of law can be misunderstood to state that the presiding officer "controls" the agenda. That is neither the language nor the intent of the statute. The statute only assigns responsibility and accountability for meeting notices to the presiding officer, but agenda setting process more properly the subject to the body's local procedural rules.

The Open Meetings Law does not require public participation in a meeting. A governmental body may, but is not obligated to, provide for a period of "public comment" during a meeting. During that period, the governmental body may receive information from members of the public, but only limited responses or discussion is permitted if comments are on a subject matter not included in the notice.⁴³

Meetings must be open to all persons, except when closed for a specific permitted purpose (see below). An open meeting means that it is reasonably accessible to members of the public.⁴⁴ Accessible also means "reasonable effort" to accommodate persons who want to record, video, or photograph the meeting, provided that those activities do not interfere with the meeting or rights of other participants.⁴⁵

Permitted Exemptions for Holding Closed Sessions

Some subjects if discussed in an open meeting could actually be adverse to the public interest. Consider if the meeting subject is purchasing a parcel of real estate the municipality needs, and the board wants to consider acceptable terms to authorize for negotiation. Typically, an administrator or staff person is given an acceptable range of prices to use in negotiation, but if the possible terms and prices are discussed in open session, bargaining power will be compromised as the seller will know the highest price the municipality has authorized. To avoid possible harm to the public interest, the Open Meetings Law sets forth specific exceptions that permit conducting business on limited subject matter in a closed session.

Remember that the purpose of the Open Meetings Law is providing the public with "the fullest and most complete information regarding the affairs of government as is compatible with conduct of government business," and the Open Meetings Law is to be construed liberally in favor of achieving that purpose.⁴⁶ Another general requirement of the Open Meetings Law is that all governmental business shall be conducted in open session.⁴⁷ Considering these requirements of the statutes, the exemptions in Wis. Stat. §

19.85 must be construed strictly and narrowly.⁴⁸ If there is any doubt of whether a closed session exemption applies to the meeting subject matter in question, whether to close the meeting should be resolved in favor of openness.⁴⁹

A closed session may be held for one or more of 11 specified exemptions in the statutes. The following exemptions are of interest to local government bodies.

- **"Case" deliberations - Wis. Stat. § 19.85(1)(a).** This narrow exemption considers a "case" to be the subject of a quasi-judicial hearing that has many aspects of a court case: adversaries, witnesses, direct, and cross examination of witnesses.⁵⁰
- **Employee discipline, licensing, tenure, and employee evaluation- Wis. Stat. § 19.85 (1)(b) & (c).** Two open meeting exemptions involve one or more public employees. Closed sessions are permitted under Wis. Stat. § 19.85 (1)(b), when the subject is the dismissal, demotion, licensing, tenure, or discipline of a public employee. Wis. Stat. § 19.85 (1)(c), permits closed session when considering employment, promotion, compensation, or performance evaluation. These two exemptions do not include all employee related subjects, but facts and information about a specific employee(s). It does not grant an exemption when discussing policies involving a department or all employees in general.⁵¹ Neither can consideration of action to fill a vacancy on the governmental body or appointments to committees be in closed session.⁵²

If a closed session is to consider employee dismissal, demotion, or discipline and there is an evidentiary hearing or final action is contemplated, then the employee may demand that the hearing or meeting be in open session. Employees must be given notice of such closed hearings or sessions and be advised of their right to have it take place in open session. However, the employee does not have the right to demand the meeting be in closed session.⁵³

- **Criminal matters - Wis. Stat. §19.85(1)(d).** This exemption allows closed sessions to consider strategies for crime prevention or detection. It also allows closed session to consider probation or parole, but this is not a local government function.
- **Purchases and competitive bargaining - Wis. Stat. §19.85(1)(e).** This is the exemption mentioned in the introduction to this segment of this chapter. Closed sessions are allowed when deliberating or negotiating the purchase of public property, investment of public funds, or other specified public business, when competitive or bargaining reasons require a closed session. The competitive or bargaining reasons must relate to reasons benefiting the governmental body, not a private party's desire for confidentiality.⁵⁴
- **Burial sites - Wis. Stat. § 19.85(1)(em).** Deliberating on a burial site if discussing it in public would likely result in disturbance of the site.
- **Damaging personal information - Wis. Stat. § 19.85(1)(f).** Closed session is permitted when considering financial, medical, social or personal histories, or disciplinary data of specific persons. It also includes preliminary consideration of specific personnel problems or investigation of charges against a specific person, except when that person's right to an open meeting applies (see "Employee discipline, licensing, tenure" above). This exception can only be used if discussion in an open meeting would have a substantial adverse effect on the reputation of the person involved. This exemption applies to "specific persons" as compared to a small classification of public employees (see "Employee discipline, licensing, tenure" above.)

- **Legal consultation - Wis. Stat. § 19.85(g).** Conferring with legal counsel who is giving written or oral advice about strategy to be adopted in litigation in which the governmental body is or is likely to be involved.
- **Confidential ethics opinion - Wis. Stat. § 19.85(1)(h).** Used to consider a request for confidential written advice from a local ethics board.

Conducting Permitted Closed Session

The Open Meetings Law spells out a specific process to meet in closed session. Notice must be given of a contemplated closed session. The notice must describe the subject matter and specify the specific statutory exemption(s) allowing the closed session.⁵⁵ The notice of the subject matter of a closed session must be specific enough to allow the members voting on a motion for closed session and the public to discern whether the subject is authorized for closed session under Wis. Stat. §19.85(1).

To go into a closed session, the meeting must begin in open session. The body's presiding officer must announce the authority and subject of the proposed closed session. The announcement must be included in the meeting minutes or record. A motion to go into closed session must be made and seconded, followed by a vote so that each member's vote can be determined. The motion, the second, and the vote must be part of the meeting record.⁵⁶ Once a body goes into closed session it cannot reconvene in open session for 12 hours, unless public notice was given in the original notice of its intent to return to open session.⁵⁷

If the need arises, the body can go into closed session on an item specified in the public notice.⁵⁸ In such a case, the closed session item should be placed at the end of the agenda because the body cannot reconvene in open session when there was not a notice of the closed session. This is a very narrow provision, and whenever time allows, 24-hour notice must be given, or if there is good cause, at least two-hour notice could be used to give an amended notice that includes an indication that a closed session was not originally contemplated.

As with open sessions, motions and votes in closed session must be recorded. Whenever feasible, votes should be taken in open session, unless voting is an integral part of the closed session and the reason for going into closed session would be defeated or compromised by votes in open session.⁵⁹

Only matters for which the session was closed may be considered in closed session.⁶⁰ All governmental body members may participate in closed session, including those that voted against closed session. This includes a committee meeting in closed session, even if members are not on that committee, unless the governing body has a formal rule or ordinance allowing for the exclusion of members who are not serving on the committee.⁶¹ The body has discretion to admit anyone to a closed session that they deem necessary to conduct the business of the closed session.⁶²

Voting & Records

Generally, motions, seconds, and any roll call votes must be recorded, preserved, and made available to the extent prescribed by the Public Records Law.⁶³ (See the "Wisconsin Public Records" chapter of this handbook.). Certain statutes require each member's vote to be recorded; for example, Wis. Stat. § 19.85, discussed above, requires each member's vote to be recorded to convene in closed session. Wis. Stat. § 59.23(2)(a), requires county clerks to keep a record of the board proceeding, including the vote of each

supervisor. The Open Meetings Law provides that any member of a governmental body may require a roll call vote.⁶⁴

Penalties & Enforcement (Wis. Stats. §§ 19.96 & 19.97)

Violations of the Open Meetings Law are punishable by a court imposing a civil forfeiture penalty or a fine of \$25 to \$300 against members who attended a meeting in violation of the law, or a presiding officer who violated the notice requirement. These amounts are the base penalty, and, with mandatory court costs and assessments, a \$300 forfeiture can reach over \$500. Any forfeiture imposed must be paid by the members themselves and cannot be reimbursed by the governmental unit.⁶⁵ If the enforcement involves an improper closed session, members who voted against convening in closed session have a defense to the charge.⁶⁶

In addition, a court enforcing the Open Meetings Law has the power to void any action taken at a meeting in violation of the Open Meetings Law. There may be other remedies, such as an injunction, that the court may order.⁶⁷ A court also can order that the reasonable costs of prosecuting the violation can be recovered.

To start an enforcement action, any person may file a complaint under oath, known as a "verified complaint," with the county district attorney (DA). If the DA does not bring an enforcement action within 20 days, the person may bring his or her own enforcement action in the name of the state. If successful, violators can be required to pay the actual costs and reasonable attorney fees of bringing the court action. In some cases, the attorney general's office may bring an enforcement action.

These penalties are serious, but even allegations of Open Meetings Law violations often have a devastating effect on public trust in the governmental body and its members. There is also the personal embarrassment to the members and political consequences. On the other hand, being mindful of the purpose and requirements of the Open Meeting Law is a means to build public trust.

Reference & Advice

Refer to Wis. Stat. §§ 19.81-19.98 for the specific wording of the law. The Wisconsin Department of Justice has created the Office of Open Government, which has a website where you will find Open Meetings Law statutes, Wisconsin Open Meetings Law, A Compliance Guide (2018), and other resources: <https://www.doj.state.wi.us/office-open-government/office-open-governmentresources>. Advice on the Open Meetings Law is available from the county corporation counsel, a municipal attorney, or the Wisconsin Department of Justice. The UW-Extension Local Government Center (LGC) has resources available including a video on the law, which is available through the LGC's website, <http://lgc.uwex.edu>.

Acknowledgements

Thanks to reviewers David Hinds, Professor Emeritus University of Wisconsin-Extension, Jennifer Bock, Wisconsin Counties Association. (Note: reviewers have not reviewed the section on 2020 amendments to the Open Meetings Law.

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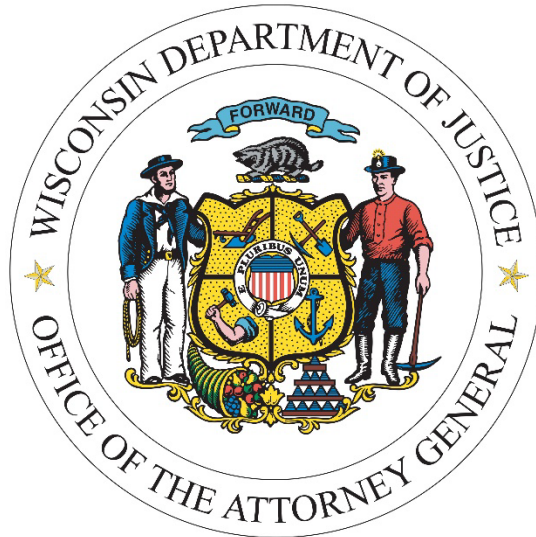
Endnotes

- ¹ Wis. Stat. § 19.81 (3).
- ² State ex rel. Newspapers, Inc. v. Showers, 135 Wis.2d 77, 79 (1987); State ex rel. Badke v. Village Board of the Village of Greendale, 173 Wis.2d 553, 571 (1993).
- ³ For example: Badke, 173 Wis.2d 553 at 570 (1993); Journal Times v. City of Racine Bd. of Police and Fire Comm'rs, 2015 WI 56 ¶ 46.
- ⁴ Citizens for Responsible Development v. City of Milton, 2007 WI App 114, ¶16.
- ⁵ Wis. Stat. § 19.82(1).
- ⁶ 78 Op. Att'y Gen. 67
- ⁷ Open Meeting Law Compliance Guide, p. 4 - 5 (2018).
- ⁸ Krueger v. Appleton Area Scholl District, 2017 WI 70, ¶¶24-26.
- ⁹ Wisconsin Counties, September 2017, p.12; The Municipality, October 2017, p.23 (Governing Bodies 398 & 399).
- ¹⁰ Wis. Stat. §19.82(1).
- ¹¹ State v. Beaver Dam Area Development Corp., 2008 WI 90, ¶44.
- ¹² Beaver Dam, ¶45.
- ¹³ Beaver Dam, ¶72.
- ¹⁴ Beaver Dam, ¶66.
- ¹⁵ Beaver Dam, ¶78.
- ¹⁶ Beaver Dam, ¶¶73,74.
- ¹⁷ Beaver Dam, ¶75.
- ¹⁸ Wis. Prof'l Police Ass'n, Inc. v. Wis. Counties Ass'n, 2014 WI App 106.
- ¹⁹ Wis. Stat. §§19.82(1) & 19.86.
- ²⁰ Wis. Stat. §19.82(2).
- ²¹ See note 2, above.
- ²² This was the situation in the Showers case, above.
- ²³ Showers, 135 Wis.2d at 92, 100 (quoting State ex. rel. Lynch v. Conta, 71 Wis.2d 662, 687 (1976)).
- ²⁴ 69 Op. Att'y Gen. 143 (1980).
- ²⁵ Open Meeting Law Compliance Guide, p. 11 (2018).
- ²⁶ Badke, 173 Wis.2d 553, 571.
- ²⁷ July 26, 2016, correspondence from Assistant Attorney General Paul Ferguson to John Bodnar, Winnebago County Corporation Counsel, and Scott Ceman, Winnebago County District Attorney.
- ²⁸ Wis. Stat. § 19.82(3).
- ²⁹ Badke, 173 Wis.2d 553, 580-81.
- ³⁰ Wis. Stat. §§ 19.83 & 19.85.
- ³¹ Wis. Stat. § 19.84(4).
- ³² Wis. Stat. §19.84(1)(b)1,2 &3(2020)
- ³³ Note: Wis. Stat. §19.84(1)(b)2), does not say that the Internet site notice has to be in a manner “likely to give notice to the public,” but given policies of the Open Meetings Law, the notice should be placed in a manner to facilitate access by the public.
- ³⁴ Open Meeting Law Compliance Guide, p. 14 (2018).
- ³⁵ Wis. Stat. § 19.84(1)(b).
- ³⁶ Wis. Stat. § 19.84(1)(b).
- ³⁷ Wis. Stat. § 19.85(2).
- ³⁸ Wis. Stat. §19.84(2).
- ³⁹ State ex rel Buswell v. Tomah, 2007 WI 71.
- ⁴⁰ State ex rel Buswell v. Tomah, 2007 WI 71, ¶¶29-31.
- ⁴¹ Compliance Guide, p. 17 (2018); AG-Thompson Informal Correspondence, September 3, 2004.; AG-Ericson Informal Correspondence, April 22, 2009.
- ⁴² Wis. Stat. §19.84(1)(b).
- ⁴³ Wis. Stat. § 19.84(2).
- ⁴⁴ Wis. Stat. § 19.82(3).
- ⁴⁵ Wis. Stat. § 19.90.
- ⁴⁶ Wis. Stat. § 19.81(1) & (4).
- ⁴⁷ Wis. Stat. §19.83(1).

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- ⁴⁸ State ex rel. Hodge v. Town of Turtle Lake, 180 Wis.2d 62, 70 (1993).
- ⁴⁹ See 74 Op. Att'y Gen. 70, 73 (1985).
- ⁵⁰ See Hodge, above.
- ⁵¹ Oshkosh NW. Co. v. Oshkosh Library Bd., 125 Wis. 2d 480, 486 (Ct. App. 1985).
- ⁵² 76 Op. Att'y Gen 276 (1987) and 74 Op. Att'y Gen 70, 72 (1985).
- ⁵³ State ex rel. Schaeve v. Van Lare, 125 Wis. 2d 40, Ct. App. 1985).
- ⁵⁴ State ex rel. Citizens v. City of Milton, 2007 WI App 114, ¶15-14 ¶
- ⁵⁵ Wis. Stat. §§ 19.84(2) & 19.85(1).
- ⁵⁶ Wis. Stat. § 19.85(1).
- ⁵⁷ Wis. Stat. § 19.85(2).
- ⁵⁸ 66 Op. Att'y Gen. 106 (1973).
- ⁵⁹ Open Meeting Law Compliance Guide, p. 29-30 (2018).
- ⁶⁰ Wis. Stat. § 19.85(1).
- ⁶¹ Wis. Stat. § 19.89).
- ⁶² Informal correspondence to Shuh, December 15, 1988.
- ⁶³ Wis. Stat. §§ 19.88 & 985.01(6).
- ⁶⁴ Wis. Stat. §19.88(2).
- ⁶⁵ 66 Op Att'y Gen. 226 (1977).
- ⁶⁶ Wis. Stat. § 19.96.
- ⁶⁷ Wis. Stat. § 19.97(3).

March 2025

Wisconsin Open Meetings Law Compliance Guide



Wisconsin Department of Justice
Attorney General Josh Kaul

Message from the Office of Open Government

It is imperative that we recognize that transparency is the cornerstone of democracy and that citizens cannot hold elected officials accountable in a representative government unless government is performed in the open.

The Wisconsin Department of Justice (DOJ) plays an important role in ensuring Wisconsin's open government laws are properly and faithfully executed by public officials. Wisconsin DOJ's Office of Open Government makes available a snapshot of all public records requests pending each week, average monthly response times for the office, and responses to public records requests that may be of public interest on the Wisconsin DOJ website. Wisconsin DOJ responds to hundreds of inquiries every year concerning issues related to the open meetings law and the public records law, and instructs on open government at conferences, seminars, and training sessions. In these ways, the Office of Open Government provides resources and services to all state, regional, and local government entities and citizens.

Wisconsin's open government laws promote democracy by ensuring that all state, regional and local governments conduct their business with transparency. Wisconsin citizens have a right to know how their government is spending their tax dollars and exercising the powers granted by the people. This guide is a resource for everyone to understand and exercise their right to access their government.

This compliance guide may be accessed, downloaded, or printed free of charge from the Wisconsin DOJ website, by visiting <https://www.wisdoj.gov>. Please share this guide with your constituencies and colleagues.

Records custodians and all those who perform public duties are encouraged to contact the Office of Open Government if we can be of assistance.

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Disclaimer

This guide provides an overview of the law and compiles information provided by Wisconsin DOJ in response to inquiries submitted over the course of several decades. This guide is provided pursuant to Wis. Stat. § 19.98 and does not constitute an informal or formal opinion of the Attorney General pursuant to Wis. Stat. § 165.015(1).

This guide does not provide answers to every question that may arise regarding the open meetings law. Although this guide is updated periodically, it reflects the current law as of the date of its publication, and it may be superseded or affected by newer versions and/or changes in the law. This guide does not create an attorney-client relationship. You should consult with an attorney for specific information and advice when necessary and appropriate.

Wisconsin Open Meetings Law Compliance Guide



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The 2025 edition of the *Wisconsin Open Meetings Law Compliance Guide* results from the efforts of the Office of Open Government, as well as the following Wisconsin Department of Justice personnel, all of whom are acknowledged and appreciated:

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POLICY OF THE OPEN MEETINGS LAW

The State of Wisconsin recognizes the importance of having a public informed about governmental affairs. The state's open meetings law declares that:

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

In order to advance this policy, the open meetings law requires that “all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times unless otherwise expressly provided by law.”² Thus, there is a presumption that meetings of governmental bodies must be held in open session.³ Although there are exemptions allowing closed sessions in specified circumstances, they are to be invoked sparingly and only where necessary to protect the public interest. The policy of the open meetings law dictates that governmental bodies convene in closed session only where holding an open session would be incompatible with the conduct of governmental affairs. “Mere government inconvenience is . . . no bar to the requirements of the law.”⁴

The open meetings law explicitly provides that all of its provisions must be liberally construed to achieve its purposes.⁵ This rule of liberal construction applies in all situations, except enforcement actions in which forfeitures are sought.⁶ Public officials must be ever mindful of the policy of openness and the rule of liberal construction in order to ensure compliance with both the letter and spirit of the law.⁷

WHEN DOES THE OPEN MEETINGS LAW APPLY?

The open meetings law applies to every “meeting” of a “governmental body.”⁸ The terms “meeting” and “governmental body” are defined in Wis. Stat. § 19.82(1) and (2).

Definition of “Governmental Body”

A “governmental body” is defined as:

[A] state or local agency, board, commission, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley Center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long-term care district under s. 46.2895; or a formally constituted subunit of any of the foregoing, but excludes any such

¹ Wis. Stat. § 19.81(1).

² Wis. Stat. § 19.81(2).

³ *State ex rel. Newspapers, Inc. v. Showers*, 135 Wis. 2d 77, 97, 398 N.W.2d 154 (1987).

⁴ *State ex rel. Lynch v. Conta*, 71 Wis. 2d 662, 678, 239 N.W.2d 313 (1976).

⁵ Wis. Stat. § 19.81(4); *State ex rel. Badke v. Vill. Bd. of Greendale*, 173 Wis. 2d 553, 570, 494 N.W.2d 408 (1993); *State ex rel. Lawton v. Town of Barton*, 2005 WI App 16, ¶ 19, 278 Wis. 2d 388, 692 N.W.2d 304 (“The legislature has issued a clear mandate that we are to vigorously and liberally enforce the policy behind the open meetings law.”).

⁶ Wis. Stat. § 19.81(4).

⁷ *State ex rel. Citizens for Responsible Dev. v. City of Milton*, 2007 WI App 114, ¶ 6, 300 Wis. 2d 649, 731 N.W.2d 640 (“The legislature has made the policy choice that, despite the efficiency advantages of secret government, a transparent process is favored.”).

⁸ Wis. Stat. § 19.83.

body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV, V, or VI of ch. 111.⁹

This definition includes multiple parts, the most important of which are discussed below.

- **State or Local Agencies, Boards, and Commissions**

The definition of “governmental body” includes a “state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order”¹⁰ This list of entities is broad enough to include virtually any collective governmental entity, regardless of what it is labeled. It is important to note that these entities are defined primarily in terms of the manner in which they are created, rather than in terms of the type of authority they possess. Purely advisory bodies are therefore subject to the law, even though they do not possess final decision-making power, as long as they are created by constitution, statute, ordinance, rule, or order.¹¹

The words “constitution,” “statute,” and “ordinance,” as used in the definition of “governmental body,” refer to the constitution and statutes of the State of Wisconsin and to ordinances promulgated by a political subdivision of the state. Thus, the definition includes state and local bodies created by Wisconsin’s constitution or statutes, including condemnation commissions created by Wis. Stat. § 32.08, as well as local bodies created by an ordinance of any Wisconsin municipality. It does not, however, include bodies created solely by federal law or by the law of some other sovereign.

State and local bodies created by “rule or order” are also included in the definition. The term “rule or order” has been liberally construed to include any directive, formal or informal, creating a body and assigning it duties.¹² This includes directives from governmental bodies, presiding officers of governmental bodies, or certain governmental officials, such as county executives, mayors, or heads of a state or local agency, department, or division.¹³

Thus, for example, in *State ex rel. Krueger v. Appleton Area School District Board of Education*, the Wisconsin Supreme Court held that a curriculum committee, “created by” school board rule and given the delegated authority to review and select educational materials for the school board’s approval, was subject to open meetings laws.¹⁴

- First, the curriculum committee was a “committee” under Wis. Stat. § 19.82(1), not an ad hoc gathering, because it was comprised of a defined membership of individuals selected pursuant to the procedures set forth in the school board’s policy handbook, and its members were empowered to vote on how the school board should exercise its collective authority as a body.¹⁵
- Second, the curriculum committee was “created by . . . rule” under Wis. Stat. § 19.82(1), because the school board handbook policy was authorized by school board rule, thereby authorizing and enabling the committee to be created. The school board rule also prescribed the procedures

⁹ Wis. Stat. § 19.82(1).

¹⁰ Wis. Stat. § 19.82(1).

¹¹ See *State v. Swanson*, 92 Wis. 2d 310, 317, 284 N.W.2d 655 (1979).

¹² 78 Op. Att’y Gen. 67, 68–69 (1989).

¹³ See 78 Op. Att’y Gen. 67.

¹⁴ *State ex rel. Krueger v. Appleton Area Sch. Dist. Bd. of Educ.*, 2017 WI 70, ¶¶ 27–34, 376 Wis. 2d 239, 898 N.W.2d 35.

¹⁵ *Id.* ¶¶ 28–31.

for school district employees to follow in reviewing educational materials and presenting them to the school board for approval. Read together, the school board rule and the board-approved handbook policy therefore authorized committees like the one at issue to be created, and also authorized such committees to exercise the school board's delegated authority over curriculum review for the school district.¹⁶

- In so holding, the Wisconsin Supreme Court explained that it did not matter that two individual district employees decided to put the rule and handbook policy in motion to form the committee. It also did not matter that neither the school board rule nor the handbook policy had provisions that created or mentioned the committee by name. Nor did it matter that the committee deviated from the handbook's procedures in making its recommendations to the school board for a specific course's curriculum. Rather, the dispositive factor was that the school board's handbook policy authorized such review committees to be created for the purposes of reviewing curriculum materials and making recommendations to the school board for adoption.¹⁷

A group organized by its own members pursuant to its own charter, however, is not created by any governmental directive and thus is not a governmental body, even if it is subject to governmental regulation and receives public funding and support. Thus, the relationship of affiliation between the University of Wisconsin Union and various student clubs is not sufficient to make the governing board of such a club a governmental body.¹⁸

The Wisconsin Supreme Court or Wisconsin Attorney General have concluded that the following entities are state or local bodies that are subject to the open meetings law by virtue of having been created by constitution, statute, ordinance, resolution, rule or order:

- **State or Local Bodies Created by Constitution, Statute, or Ordinance**
 - ◇ A municipal public utility managing a city-owned public electrical utility.¹⁹
 - ◇ Departments of formally constituted subunits of the University of Wisconsin system or campus.²⁰
 - ◇ A town board, but not an annual or special town meeting of town electors.²¹
 - ◇ A county board of zoning adjustment authorized by Wis. Stat. § 59.99(3) (1983) (now Wis. Stat. § 59.694(1)).²²
 - ◇ A public inland lake protection and rehabilitation district established by a county or municipality, pursuant to Wis. Stat. §§ 33.21 to 33.27.²³

¹⁶ *Krueger*, 2017 WI 70, ¶¶ 32–34, 43.

¹⁷ *Id.* ¶¶ 35–40.

¹⁸ *Penkalski Correspondence* (May 4, 2009).

¹⁹ 65 Op. Att'y Gen. 243 (1976).

²⁰ 66 Op. Att'y Gen. 60 (1977).

²¹ 66 Op. Att'y Gen. 237 (1977).

²² *Gaylord Correspondence* (June 11, 1984).

²³ *DuVall Correspondence* (Nov. 6, 1986).

▪ **State or Local Bodies Created by Resolution, Rule, or Order**

- ◇ A committee created by a school board's policy handbook to review and select education materials for the board's approval.²⁴
- ◇ A committee appointed by the school superintendent to consider school library materials.²⁵
- ◇ A citizen's advisory group appointed by the mayor.²⁶
- ◇ An advisory committee appointed by the Natural Resources Board, the Secretary of the Department of Natural Resources, or a District Director, Bureau Director, or Property Manager of that department.²⁷
- ◇ A consortium of school districts created by a contract between districts; a resolution is the equivalent of an order.²⁸
- ◇ An industrial agency created by resolution of a county board under Wis. Stat. § 59.57(2).²⁹
- ◇ A deed restriction committee created by resolution of a common council.³⁰
- ◇ A school district's strategic-planning team whose creation was authorized and whose duties were assigned to it by the school board.³¹
- ◇ A citizen's advisory committee appointed by a county executive.³²
- ◇ An already-existing numerically definable group of employees of a governmental entity, assigned by the entity's chief administrative officer to prepare recommendations for the entity's policy-making board, when the group's meetings include the subject of the chief administrative officer's directive.³³
- ◇ A Criminal Justice Study Commission created by the Wisconsin Department of Justice, the University of Wisconsin Law School, the State Bar of Wisconsin, and the Marquette University Law School.³⁴
- ◇ Grant review panels created by a consortium which was established pursuant to an order of the Wisconsin Commissioner of Insurance.³⁵

²⁴ [Krueger](#), 2017 WI 70, ¶ 27.

²⁵ [Staples Correspondence](#) (Feb. 10, 1981).

²⁶ [Funkhouser Correspondence](#) (Mar. 17, 1983).

²⁷ 78 Op. Att'y Gen. 67.

²⁸ I-10-93 (Oct. 15, 1993).

²⁹ I-22-90 (Apr. 4, 1990).

³⁰ I-34-90 (May 25, 1990).

³¹ I-29-91 (Oct. 17, 1991).

³² [Jacques Correspondence](#) (Jan. 26, 2004).

³³ [Tylka Correspondence](#) (June 8, 2005).

³⁴ [Lichstein Correspondence](#) (Sept. 20, 2005).

³⁵ [Katayama Correspondence](#) (Jan. 20, 2006).

- ◇ A joint advisory task force established by a resolution of a Wisconsin town board and a resolution of the legislature of a sovereign Indian tribe.³⁶
- ◇ A University of Wisconsin student government committee, council, representative assembly, or similar collective body that has been created and assigned governmental responsibilities pursuant to Wis. Stat. § 36.09(5).³⁷

○ Governmental or Quasi-Governmental Corporations

The definition of “governmental body” also includes a “governmental or quasi-governmental corporation,” except for the Bradley sports center corporation.³⁸ The term “governmental corporation” is not defined in either the statutes or the case law interpreting the statutes. It is clear, however, that a “governmental corporation” must at least include a corporation established for some public purpose and created directly by the state legislature or by some other governmental body pursuant to specific statutory authorization or direction.³⁹

The term “quasi-governmental corporation” also is not defined in the statutes, but its definition was discussed by the Wisconsin Supreme Court in *State v. Beaver Dam Area Development Corp.* (“BDADC”).⁴⁰ In that decision, the court held that a “quasi-governmental corporation” does not have to be *created* by the government or be *per se* governmental, but rather is a corporation that significantly resembles a governmental corporation in function, effect, or status.⁴¹ The court further held that each case must be decided on its own particular facts, under the totality of the circumstances and set forth a non-exhaustive list of factors to be examined in determining whether a particular corporation sufficiently resembles a governmental corporation to be deemed quasi-governmental, while emphasizing that no single factor is outcome determinative.⁴² The factors set out by the court in *BDADC* fall into five basic categories: (1) the extent to which the private corporation is supported by public funds; (2) whether the private corporation serves a public function and, if so, whether it also has other private functions; (3) whether the private corporation appears in its public presentations to be a governmental entity; (4) the extent to which the private corporation is subject to governmental control; and (5) the degree of access that government bodies have to the private corporation’s records.⁴³

In adopting this case-specific, multi-factored “function, effect or status” standard, the Wisconsin Supreme Court followed a 1991 Attorney General opinion.⁴⁴ Prior to 1991, however, Attorney General opinions on this subject emphasized some of the more formal aspects of

³⁶ I-04-09 (Sept. 28, 2009).

³⁷ I-05-09 (Dec. 17, 2009).

³⁸ Wis. Stat. § 19.82(1).

³⁹ See 66 Op. Att’y Gen. 113, 115 (1977).

⁴⁰ *State v. Beaver Dam Area Dev. Corp.* (“BDADC”), 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295.

⁴¹ *Id.* ¶¶ 33–36.

⁴² *Id.* ¶¶ 7–8, 63 n.14, 79.

⁴³ *Id.* ¶ 62.

⁴⁴ See 80 Op. Att’y Gen. 129, 135 (1991) (Milwaukee Economic Development Corporation, a Wis. Stat. ch. 181 corporation organized by two private citizens and one city employee, is a quasi-governmental corporation); see also [Kowalczyk Correspondence](#) (Mar. 13, 2006) (non-stock, non-profit corporations established for the purpose of providing emergency medical or fire department services for participating municipalities are quasi-governmental corporations).

quasi-governmental corporations. Those opinions should now be read in light of the *BDADC* decision.⁴⁵

In March 2009, the Attorney General issued an informal opinion which analyzed the *BDADC* decision in greater detail and expressed the view that, out of the numerous factors discussed in that decision, particular weight should be given to whether a corporation serves a public function and has any private functions.⁴⁶ When a private corporation contracts to perform certain services for a governmental body, the key considerations in determining whether the corporation becomes quasi-governmental are whether the corporation is performing a portion of the governmental body's public functions or whether the services provided by the corporation play an integral part in any stage—including the purely deliberative stage—of the governmental body's decision-making process.⁴⁷

In January 2019, the Wisconsin Court of Appeals also analyzed the *BDADC* decision further, and held that, while all the non-exhaustive factors set forth in *BDADC* are relevant and no one factor is outcome determinative, a “primary consideration” is whether the private corporation is funded exclusively on public tax dollars or interest generated on those dollars.⁴⁸

- **State Legislature**

Generally speaking, the open meetings law applies to the state legislature, including the senate, assembly, and any committees or subunits of those bodies.⁴⁹ The law does not apply to any partisan caucus of the senate or assembly.⁵⁰ The open meetings law also does not apply where it conflicts with a rule of the legislature, senate, or assembly.⁵¹ Additional restrictions are set forth in Wis. Stat. § 19.87.

- **Subunits**

A “formally constituted subunit” of a governmental body is itself a “governmental body” within the definition in Wis. Stat. § 19.82(1). A subunit is a separate, smaller body created by a parent body and composed exclusively of members of the parent body.⁵² If, for example, a fifteen member county board appoints a committee consisting of five members of the county board, that committee would be considered a “subunit” subject to the open meetings law. This is true despite the fact that the five-person committee would be smaller than a quorum of the county board. Even a committee with only two members is considered a “subunit,” as is a committee that is only advisory and that has no power to make binding decisions.⁵³

Groups that include both members and non-members of a parent body are not “subunits” of the parent body. Such groups nonetheless frequently fit within the definition of a “governmental

⁴⁵ See 66 Op. Att’y Gen. 113 (volunteer fire department organized under Wis. Stat. ch. 181 is not a quasi-governmental corporation); 73 Op. Att’y Gen. 53 (1984) (Historic Sites Foundation organized under Wis. Stat. ch. 181 is not a quasi-governmental corporation); 74 Op. Att’y Gen. 38 (corporation established to provide financial support to public broadcasting stations organized under Wis. Stat. ch. 181 is not a quasi-governmental corporation); *Geyer Correspondence* (Feb. 26, 1987) (Grant County Economic Development Corporation organized by private individuals under Wis. Stat. ch. 181 is not a quasi-governmental corporation, even though it serves a public purpose and receives more than fifty percent of its funding from public sources).

⁴⁶ I-02-09 (Mar. 19, 2009).

⁴⁷ *Id.*

⁴⁸ *State ex rel. Flynn v. Kemper Ctr., Inc.*, 2019 WI App 6, ¶¶ 14–16, 385 Wis. 2d 811, 924 N.W.2d 218.

⁴⁹ Wis. Stat. § 19.87.

⁵⁰ Wis. Stat. § 19.87(3).

⁵¹ Wis. Stat. § 19.87(2).

⁵² 74 Op. Att’y Gen. 38, 40 (1985).

⁵³ *Dziki Correspondence* (Dec. 12, 2006).

body”—*e.g.*, as advisory groups to the governmental bodies or government officials that created them.

Any entity that fits within the definition of “governmental body” must comply with the requirements of the open meetings law. In most cases, it is readily apparent whether a particular entity fits within the definition. On occasion, there is some doubt. In such situations, the entity should consult with its legal counsel. Any doubts as to the applicability of the open meetings law should be resolved in favor of complying with the law’s requirements.

- **Entities That Are Not Governmental Bodies**

- **Governmental Offices Held by a Single Individual**

The open meetings law does not apply to a governmental department with only a single member.⁵⁴ Because the term “body” connotes a group of individuals, a governmental office held by a single individual likewise is not a “governmental body” within the meaning of the open meetings law. Thus, the open meetings law does not apply to the office of coroner or to inquests conducted by the coroner.⁵⁵ Similarly, the Attorney General has concluded that the open meetings law does not apply to an administrative hearing conducted by an individual hearing examiner.⁵⁶

- **Bodies Meeting for Collective Bargaining**

The definition of “governmental body” explicitly excludes bodies that are formed for or meeting for the purpose of collective bargaining with municipal or state employees under subchapters I, IV, or V of Wis. Stat. ch. 111. A body formed exclusively for the purpose of collective bargaining is not subject to the open meetings law.⁵⁷ A body formed for other purposes, in addition to collective bargaining, is not subject to the open meetings law when conducting collective bargaining.⁵⁸ The Attorney General has, however, advised multi-purpose bodies to comply with the open meetings law, including the requirements for convening in closed session, when meeting for the purpose of forming negotiating strategies to be used in collective bargaining.⁵⁹ The collective bargaining exclusion does not permit any body to consider the final ratification or approval of a collective bargaining agreement under subchapters I, IV, or V of Wis. Stat. ch. 111 in closed session.⁶⁰

- **Bodies Created by the Wisconsin Supreme Court**

The Wisconsin Supreme Court has held that bodies created by the court, pursuant to its superintending control over the administration of justice, are not governed by the open meetings law.⁶¹ Thus, generally speaking, the open meetings law does not apply to the court or bodies created by the court. In the *Lynch* case, for example, the court held that the former open meetings law, Wis. Stat. § 66.77(1) (1973), did not apply to the Wisconsin Judicial Commission, which is responsible for handling misconduct complaints against judges. Similarly, the Attorney General has indicated that the open meetings law does not apply to: the Board of Attorneys Professional

⁵⁴ *Plourde v. Habegger*, 2006 WI App 147, 294 Wis. 2d 746, 720 N.W.2d 130.

⁵⁵ 67 Op. Att’y Gen. 250 (1978).

⁵⁶ *Clifford Correspondence* (Dec. 2, 1980).

⁵⁷ Wis. Stat. § 19.82(1).

⁵⁸ Wis. Stat. § 19.82(1)

⁵⁹ 66 Op. Att’y Gen. 93, 96-97 (1977).

⁶⁰ Wis. Stat. § 19.85(3).

⁶¹ *State ex rel. Lynch v. Dancy*, 71 Wis. 2d 287, 238 N.W.2d 81 (1976).

Responsibility;⁶² the Board of Bar Examiners;⁶³ or the monthly judicial administration meetings of circuit court judges, conducted under the authority of the court's superintending power over the judiciary.⁶⁴

- **Ad Hoc Gatherings**⁶⁵

Although the definition of a governmental body is broad, some gatherings are too loosely constituted to fit the definition. Thus, *Conta* holds that the directive that creates the body must also "confer[] collective power and define[] when it exists."⁶⁶ *Showers* adds the further requirement that a "meeting" of a governmental body takes place only if there are a sufficient number of members present to determine the governmental body's course of action.⁶⁷ In order to determine whether a sufficient number of members are present to determine a governmental body's course of action, the membership of the body must be numerically definable. The Attorney General's Office thus has concluded that a loosely constituted group of citizens and local officials instituted by the mayor to discuss various issues related to a dam closure was not a governmental body, because no rule or order defined the group's membership, and no provision existed for the group to exercise collective power.⁶⁸

The definition of a "governmental body" is only rarely satisfied when groups of a governmental unit's employees gather on a subject within the unit's jurisdiction. Thus, for example, the Attorney General concluded that the predecessor of the current open meetings law did not apply when a department head met with some or even all of his or her staff.⁶⁹ Similarly, the Attorney General's Office has advised that the courts would be unlikely to conclude that meetings between the administrators of a governmental agency and the agency's employees, or between governmental employees and representatives of a governmental contractor were "governmental bodies" subject to the open meetings law.⁷⁰ However, where an already-existing numerically definable group of employees of a governmental entity are assigned by the entity's chief administrative officer to prepare recommendations for the entity's policy-making board, the group's meetings with respect to the subject of the directive are subject to the open meetings law.⁷¹

⁶² [OAG 67-79](#) (July 31, 1979) (unpublished) (the Board of Attorneys Professional Responsibility was the predecessor to the Office of Lawyer Regulation).

⁶³ [Kosobucki Correspondence](#) (Sept. 6, 2006).

⁶⁴ [Constantine Correspondence](#) (Feb. 28, 2000).

⁶⁵ In this compliance guide, the use of "ad hoc" meetings refers to informal or otherwise unplanned gatherings. It does not refer to ad hoc governmental bodies in the sense of short-term or temporary bodies created for specific purposes, meetings of which would be subject to the open meetings law.

⁶⁶ *Conta*, 71 Wis. 2d at 681.

⁶⁷ *Showers*, 135 Wis. 2d at 102.

⁶⁸ [Godlewski Correspondence](#) (Sept. 24, 1998).

⁶⁹ 57 Op. Att'y Gen. 213, 216 (1968).

⁷⁰ [Peplnjak Correspondence](#) (June 8, 1998).

⁷¹ [Tylka Correspondence](#) (June 8, 2005).

Definition of “Meeting”

A “meeting” is defined as:

[T]he convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter⁷²

The statute then excepts the following: an inspection of a public works project or highway by a town board; or inspection of a public works project by a town sanitary district; or the supervision, observation, or collection of information about any drain or structure related to a drain by any drainage board.⁷³

- **The Showers Test**

The Wisconsin Supreme Court has held that the above statutory definition of a “meeting” applies whenever a convening of members of a governmental body satisfies two requirements: (1) there is a purpose to engage in governmental business and (2) the number of members present is sufficient to determine the governmental body’s course of action.⁷⁴

- **The Purpose Requirement**

The first part of the *Showers* test focuses on the purpose for which the members of the governmental body are gathered. They must be gathered to conduct governmental business. *Showers* stressed that “governmental business” refers to any formal or informal action, including discussion, decision, or information gathering, on matters within the governmental body’s realm of authority.⁷⁵ Thus, in *Badke*,⁷⁶ the Wisconsin Supreme Court held that the village board conducted a “meeting,” as defined in the open meetings law, when a quorum of the board regularly attended each plan commission meeting to observe the commission’s proceedings on a development plan that was subject to the board’s approval. The court stressed that a governmental body is engaged in governmental business when its members gather to simply hear information on a matter within the body’s realm of authority.⁷⁷ The members need not actually discuss the matter or otherwise interact with one another to be engaged in governmental business.⁷⁸ The court also held that the gathering of town board members was not chance or social because a majority of town board members attended plan commission meetings with regularity.⁷⁹ In contrast, the court of appeals concluded in *Paulton v. Volkmann*,⁸⁰ that no meeting occurred where a quorum of school board members attended a gathering of town residents, but did not collect information on a subject the school board had the potential to decide.

⁷² Wis. Stat. § 19.82(2).

⁷³ Wis. Stat. § 19.82(2).

⁷⁴ *Showers*, 135 Wis. 2d at 102.

⁷⁵ *Id.* at 102–03.

⁷⁶ *Badke*, 173 Wis. 2d at 572–74.

⁷⁷ *Id.* at 573–74.

⁷⁸ *Id.* at 574–76.

⁷⁹ *Id.* at 576.

⁸⁰ *Paulton v. Volkmann*, 141 Wis. 2d 370, 375–77, 415 N.W.2d 528 (Ct. App. 1987).

- **The Numbers Requirement**

The second part of the *Showers* test requires that the number of members present be sufficient to determine the governmental body's course of action on the business under consideration. People often assume that this means that the open meetings law applies only to gatherings of a majority of the members of a governmental body. That is not the case because the power to control a body's course of action can refer either to the affirmative power to pass a proposal or the negative power to defeat a proposal. Therefore, a gathering of one-half of the members of a body, or even fewer, may be enough to control a course of action if it is enough to block a proposal. This is called a "negative quorum."

Typically, governmental bodies operate under a simple majority rule in which a margin of one vote is necessary for the body to pass a proposal. Under that approach, exactly one-half of the members of the body constitutes a "negative quorum" because that number against a proposal is enough to prevent the formation of a majority in its favor. Under simple majority rule, therefore, the open meetings law applies whenever one-half or more of the members of the governmental body gather to discuss or act on matters within the body's realm of authority.

The size of a "negative quorum" may be smaller, however, when a governmental body operates under a super majority rule. For example, if a two-thirds majority is required for a body to pass a measure, then any gathering of more than one-third of the body's members would be enough to control the body's course of action by blocking the formation of a two-thirds majority. *Showers* made it clear that the open meetings law applies to such gatherings, as long as the purpose requirement is also satisfied (*i.e.*, the gathering is for the purpose of conducting governmental business).⁸¹ If a three-fourths majority is required to pass a measure, then more than one-fourth of the members would constitute a "negative quorum," etc.

- **Convening of Members**

When the members of a governmental body conduct official business while acting separately, without communicating with each other or engaging in other collective action, there is no meeting within the meaning of the open meetings law.⁸² Nevertheless, the phrase "convening of members" in Wis. Stat. § 19.82(2) is not limited to situations in which members of a body are simultaneously gathered in the same location, but may also include other situations in which members are able to effectively communicate with each other and to exercise the authority vested in the body, even if they are not physically present together. Whether such a situation qualifies as a "convening of members" under the open meetings law depends on the extent to which the communications in question resemble a face-to-face exchange.

- **Written Correspondence**

The circulation of a paper or hard copy memorandum among the members of a governmental body, for example, may involve a largely one-way flow of information, with any exchanges spread out over a considerable period of time and little or no conversation-like interaction among members. Accordingly, the Attorney General has long taken the position that such written communications generally do not constitute a "convening of members" for purposes of the open meetings law.⁸³ Although the rapid evolution of electronic media has made the distinction between

⁸¹ *Showers*, 135 Wis. 2d at 101-02.

⁸² *Katayama Correspondence* (Jan. 20, 2006).

⁸³ *Merkel Correspondence* (Mar. 11, 1993).

written and oral communication less sharp than it once appeared, it is still unlikely that a Wisconsin court would conclude that the circulation of a document through the postal service, or by other means of paper or hard-copy delivery, could be deemed a “convening” or “gathering” of the members of a governmental body for purposes of the open meetings law.

- **Teleconference and Video Conferences**

Teleconferences or video conferences—including those held through the use of virtual or remote meeting platforms—are very similar to in-person conversations and thus qualify as a convening of members.⁸⁴ Therefore, under the *Showers* test, the open meetings law applies to any teleconference or video conference that: (1) is for the purpose of conducting governmental business; and (2) involves a sufficient number of members of the body to determine the body’s course of action on the business under consideration. To comply with the law, a governmental body conducting a meeting by teleconference or video conference must provide the public with an effective means to monitor the conference. This may be accomplished by broadcasting the conference through speakers (and video for video conference) located at one or more sites open to the public or providing the public with an accessible link to attend the meeting remotely.⁸⁵ When conducting a video conference, the governmental body should strongly consider providing the public with an alternative telephone dial-in option for observing such a meeting so that lack of internet is not a barrier to monitor the meeting.⁸⁶

- **Electronic Communications**

Written communications transmitted by electronic means, such as email, instant messaging, blogging, or other social media, may also constitute a “convening of members,” depending on how the communication medium is used. Although no Wisconsin court has applied the open meetings law to these methods of electronic communication, it is likely that the courts will try to determine whether the communications in question are more like an in-person discussion—*e.g.*, a rapid back-and-forth exchange of viewpoints among multiple members—or more like non-electronic written correspondence, which generally does not raise open meetings law concerns. If the communications closely resemble an in-person discussion, then they may constitute a meeting if they involve enough members to control an action by the body.⁸⁷ In addressing these questions, courts are likely to consider such factors as the following: (1) the number of participants involved in the communications; (2) the number of communications regarding the subject; (3) the time frame within which the electronic communications occurred; and (4) the extent of the conversation-like interactions reflected in the communications.⁸⁸

Because the applicability of the open meetings law to such electronic communications depends on the particular way in which a specific message technology is used, these technologies create special dangers for governmental officials trying to comply with the law. Although two members of a governmental body larger than four members may generally discuss the body’s business without violating the open meetings law, features like “forward” and “reply to all,” common in electronic mail programs, deprive a sender of control over the number and identity of the recipients who eventually may have access to the sender’s message. Moreover, it is quite possible that, through

⁸⁴ 69 Op. Att’y Gen. 143 (1980); [Madsen Correspondence](#) (Jan. 27, 2023).

⁸⁵ 69 Op. Att’y Gen. at 145.

⁸⁶ Office of Open Government, Advisory, [Additional Information Regarding Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 20, 2020).

⁸⁷ [Krischan Correspondence](#) (Oct. 3, 2000).

⁸⁸ [Schmiege Correspondence](#) (Aug. 22, 2018).

the use of electronic mail, a quorum of a governmental body may receive information on a subject within the body's jurisdiction in an almost real-time basis, just as they would receive it in a physical gathering of the members.

Inadvertent violations of the open meetings law through the use of electronic communications can be reduced if electronic mail is used principally to transmit information one-way to a body's membership; if the originator of the message reminds recipients to reply only to the originator, if at all; and if message recipients are scrupulous about minimizing the content and distribution of their replies. Nevertheless, because of the absence of judicial guidance on the subject, and because electronic mail creates the risk that it will be used to carry on private debate and discussion on matters that belong at public meetings subject to public scrutiny, the Attorney General's Office strongly discourages the members of every governmental body from using electronic mail to communicate about issues within the body's realm of authority.⁸⁹ Members of a governmental body may not decide matters by email voting, even if the result of the vote is later ratified at a properly noticed meeting.⁹⁰

- **Walking Quorums**

The requirements of the open meetings law also extend to walking quorums. A "walking quorum" is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum.⁹¹ In *Conta*, the court recognized the danger that a walking quorum may produce a predetermined outcome and thus render the publicly-held meeting a mere formality.⁹² The court commented that any attempt to avoid the appearance of a "meeting" through use of a walking quorum is subject to prosecution under the open meetings law.⁹³ Thus, the requirements of the open meetings law cannot be circumvented by using an agent or surrogate to poll a quorum of the members of governmental bodies through a series of individual contacts. Such a circumvention "almost certainly" violates the open meetings law.⁹⁴ In contrast, simply keeping track of the votes of less than a negative quorum of the members of a governmental body is "hardly indicative" of a walking quorum.⁹⁵

The essential feature of a "walking quorum" is the element of agreement among members of a body to act uniformly in sufficient numbers to reach a quorum. Where there is no such express or tacit agreement, exchanges among separate groups of members may take place without violating the open meetings law.⁹⁶ The signing, by members of a body, of a document asking that a subject be placed on the agenda of an upcoming meeting thus does not constitute a "walking quorum" where the signers have not engaged in substantive discussion or agreed on a uniform course of action regarding the proposed subject.⁹⁷ In contrast, where a majority of members of a body sign a document that expressly commits them to a future course of action, a court could find a walking quorum violation.⁹⁸

⁸⁹ [Krischan Correspondence](#) (Oct. 3, 2000); [Benson Correspondence](#) (Mar. 12, 2004).

⁹⁰ [I-01-10](#) (Jan. 25, 2010).

⁹¹ [Showers](#), 135 Wis. 2d at 92 (quoting *Conta*, 71 Wis. 2d at 687).

⁹² *Conta*, 71 Wis. 2d at 685–88.

⁹³ *Id.* at 687.

⁹⁴ [Clifford Correspondence](#) (Apr. 28, 1986) (individual polling of every member is a prohibited walking quorum); [Herbst Correspondence](#) (July 16, 2008) (individually polling of a quorum of members is a prohibited walking quorum).

⁹⁵ *State ex rel. Zecchino v. Dane Cnty. Bd. of Supervisors*, 2018 WI App 19, ¶¶ 11–14, 380 Wis. 2d 453, 909 N.W.2d 203 (individual polling of less than a negative quorum of members is not a prohibited walking quorum).

⁹⁶ *Id.* ¶ 10.

⁹⁷ [Kay Correspondence](#) (Apr. 25, 2007); [Kittleson Correspondence](#) (June 13, 2007).

⁹⁸ [Huff Correspondence](#) (Jan. 15, 2008); see also [I-01-10](#) (Jan. 25, 2010) (use of email voting to decide matters fits the definition of a "walking quorum" violation of the open meetings law).

- **Multiple Meetings**

When a quorum of the members of one governmental body attend a meeting of another governmental body under circumstances where their attendance is not chance or social, in order to gather information or otherwise engage in governmental business regarding a subject over which they have decision-making responsibility, two separate meetings occur, and notice must be given of both meetings.⁹⁹ The Attorney General has advised that, despite the “separate public notice” requirement of Wis. Stat. § 19.84(4), a single notice can be used, provided that the notice clearly and plainly indicates that a joint meeting will be held and gives the names of each of the bodies involved, and provided that the notice is published and/or posted in each place where meeting notices are generally published or posted for each governmental body involved.¹⁰⁰

The kinds of multiple meetings presented in the *Badke* case, and the separate meeting notices required there, must be distinguished from circumstances where a subunit of a parent body meets during a recess from or immediately following the parent body’s meeting, to discuss or act on a matter that was the subject of the parent body’s meeting. In such circumstances, Wis. Stat. § 19.84(6) allows the subunit to meet on that matter without prior public notice.

- **Burden of Proof as to Existence of a Meeting**

The presence of members of a governmental body does not, in itself, establish the existence of a “meeting” subject to the open meetings law. The law provides, however, that if one-half or more of the members of a body are present, the gathering is presumed to be a “meeting.”¹⁰¹ The law also exempts any “social or chance gathering” not intended to circumvent the requirements of the open meetings law.¹⁰² Thus, where one-half or more of the members of a governmental body rode to a meeting in the same vehicle, the law presumes that the members conducted a “meeting” which was subject to all of the requirements of the open meetings law.¹⁰³ Similarly, where a majority of members of a common council gathered at a lounge immediately following a common council meeting, a violation of the open meetings law was presumed.¹⁰⁴ The members of the governmental body may overcome the presumption by proving that they did not discuss any subject that was within the realm of the body’s authority.¹⁰⁵

Where a person alleges that a gathering of less than one-half the members of a governmental body was held in violation of the open meetings law, that person has the burden of proving that the gathering constituted a “meeting” subject to the law.¹⁰⁶ That burden may be satisfied by proving: (1) that the members gathered to conduct governmental business; and (2) that there was a sufficient number of members present to determine the body’s course of action.

It is important to remember that the overriding policy of the open meetings law is to ensure public access to information about governmental affairs. Under the rule of liberally construing the law to ensure this purpose, any doubts as to whether a particular gathering constitutes a “meeting” subject to the open meetings law should be resolved in favor of complying with the provisions of the law.

⁹⁹ *Badke*, 173 Wis. 2d at 577.

¹⁰⁰ *Friedman Correspondence* (Mar. 4, 2003).

¹⁰¹ Wis. Stat. § 19.82(2).

¹⁰² Wis. Stat. § 19.82(2).

¹⁰³ *Karstens Correspondence* (July 31, 2008).

¹⁰⁴ *Dieck Correspondence* (Sept. 12, 2007).

¹⁰⁵ *Id.*

¹⁰⁶ *Showers*, 135 Wis. 2d at 102.

WHAT IS REQUIRED IF THE OPEN MEETINGS LAW APPLIES?

The two most basic requirements of the open meetings law are that a governmental body:

- (1) give advance public notice of each of its meetings; and
- (2) conduct all of its business in open session, unless an exemption to the open session requirement applies.¹⁰⁷

Notice Requirements

Wisconsin Stat. § 19.84, which sets forth the public notice requirements, specifies when, how, and to whom notice must be given, as well as what information a notice must contain.

- **To Whom and How Notice Must Be Given**

The chief presiding officer of a governmental body, or the officer's designee, must give notice of each meeting of the body to: (1) the public; (2) any members of the news media who have submitted a written request for notice; and (3) the official newspaper designated pursuant to state statute or, if none exists, a news medium likely to give notice in the area.¹⁰⁸

The chief presiding officer shall give notice of a meeting to the public using one of the following methods: (1) posting a notice in at least 3 places likely to give notice to persons affected; (2) posting a notice in at least one public place likely to give notice to persons affected and placing a notice electronically on the governmental body's Internet site; or (3) by paid publication in a news medium likely to give notice to persons affected. If the presiding officer gives notice in the third manner, he or she must ensure that the notice is actually published.¹⁰⁹

The chief presiding officer must also give notice of each meeting to members of the news media who have submitted a written request for notice.¹¹⁰ Although this notice may be given in writing or by telephone,¹¹¹ it is preferable to give notice in writing to help ensure accuracy and so that a record of the notice exists.¹¹²

Governmental bodies cannot charge the news media for providing statutorily required notices of public meetings.¹¹³

In addition, the chief presiding officer must give notice to the officially designated newspaper or, if none exists, to a news medium likely to give notice in the area.¹¹⁴ The governmental body is not required to pay for and the newspaper is not required to publish such notice.¹¹⁵ Note, however, the requirement to provide notice to the officially designated newspaper is distinct from the requirement to provide notice to the

¹⁰⁷ Wis. Stat. § 19.83.

¹⁰⁸ Wis. Stat. § 19.84(1)(b).

¹⁰⁹ Wis. Stat. § 19.84(b); [DeMars Correspondence](#) (Sept. 21, 2021).

¹¹⁰ Wis. Stat. § 19.84(1)(b); [Lawton](#), 2005 WI App 16, ¶¶ 3–4, 7.

¹¹¹ [65 Op. Att'y Gen. Preface](#), v–vi (1976).

¹¹² [65 Op. Att'y Gen. 250](#), 251 (1976).

¹¹³ [77 Op. Att'y Gen. 312](#), 313 (1988).

¹¹⁴ Wis. Stat. § 19.84(1)(b); [Lawton](#), 2005 WI App 16, ¶¶ 3–4, 7.

¹¹⁵ [66 Op. Att'y Gen. 230](#), 231 (1977).

public. If the chief presiding officer chooses to provide notice to the public by paid publication in a news medium, the chief presiding officer must ensure that the notice is in fact published.¹¹⁶

When a specific statute prescribes the type of meeting notice a governmental body must give, the body must comply with the requirements of that statute as well as the notice requirements of the open meetings law.¹¹⁷ However, violations of those other statutory requirements are not redressable under the open meetings law. For example, the open meetings law is not implicated by a municipality's alleged failure to comply with the public notice requirements of Wis. Stat. ch. 985 when providing published notice of public hearings on proposed tax incremental financing districts.¹¹⁸ Where a class 1 notice under Wis. Stat. ch. 985 has been published, however, the public notice requirement of the open meetings law is also thereby satisfied.¹¹⁹

- **Contents of Notice**

- **In General**

Every public notice of a meeting must give the "time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof."¹²⁰ The chief presiding officer of the governmental body is responsible for providing notice, and when he or she is aware of matters which may come before the body, those matters must be included in the meeting notice.¹²¹ The Attorney General's Office has advised that a chief presiding officer may not avoid liability for a legally deficient meeting notice by assigning to a non-member of the body the responsibility to create and provide a notice that complies with Wis. Stat. § 19.84(2).¹²²

A frequently recurring question is how specific a subject-matter description in a meeting notice must be. Prior to June 13, 2007, this question was governed by the "bright-line" rule articulated in *State ex rel. H.D. Enterprises II, LLC v. City of Stoughton*.¹²³ Under that standard, a meeting notice adequately described a subject if it identified "the general topic of items to be discussed" and the simple heading "licenses," without more, was found sufficient to apprise the public that a city council would reconsider a previous decision to deny a liquor license to a particular local grocery store.¹²⁴

On June 13, 2007, the Wisconsin Supreme Court overruled *H.D. Enterprises* and announced a new standard to be applied prospectively to all meeting notices issued after that date.¹²⁵ In *State ex rel. Buswell v. Tomah Area School District*, the court held that a public notice for a closed session for the purpose of "consideration and/or action concerning employment/negotiations with district personnel pursuant to Wis. Stat. § 19.85(1)(c)" was vague, misleading, and legally insufficient, where the school board tentatively approved a collective bargaining agreement between it and the teacher's union.¹²⁶ In reaching that conclusion, the court determined that "the plain meaning of

¹¹⁶ [DeMars Correspondence](#) (Sept. 29, 2021).

¹¹⁷ Wis. Stat. § 19.84(1)(a).

¹¹⁸ See [Boyle Correspondence](#) (May 4, 2005).

¹¹⁹ [Stalle Correspondence](#) (Apr. 10, 2008).

¹²⁰ Wis. Stat. § 19.84(2).

¹²¹ 66 Op. Att'y Gen. 68, 70 (1977).

¹²² [Schuh Correspondence](#) (Oct. 17, 2001).

¹²³ *State ex rel. H.D. Enters. II, LLC v. City of Stoughton*, 230 Wis. 2d 480, 602 N.W.2d 72 (Ct. App. 1999).

¹²⁴ *Id.* at 486–87.

¹²⁵ *State ex rel. Buswell v. Tomah Area Sch. Dist.*, 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804.

¹²⁶ *Id.* ¶¶ 6–7, 37–38, 41.

Wis. Stat. § 19.84(2) sets forth a reasonableness standard, and that such a standard strikes the proper balance contemplated in Wis. Stat. §§ 19.81(1) and (4) between the public's right to information and the government's need to efficiently conduct its business."¹²⁷ This reasonableness standard "requires a case-specific analysis" and "whether notice is sufficiently specific will depend upon what is reasonable under the circumstances."¹²⁸ In making that determination, the factors to be considered include: "[1] the burden of providing more detailed notice, [2] whether the subject is of particular public interest, and [3] whether it involves non-routine action that the public would be unlikely to anticipate."¹²⁹

The first factor "balances the policy of providing greater information with the requirement that providing such information be 'compatible with the conduct of governmental affairs.' Wis. Stat. § 19.81(1)."¹³⁰ The determination must be made on a case-by-case basis.¹³¹ "[T]he demands of specificity should not thwart the efficient administration of governmental business."¹³²

The second factor takes into account "both the number of people interested and the intensity of that interest," though the level of interest is not dispositive, and must be balanced with other factors on a case-by-case basis.¹³³

The third factor considers "whether the subject of the meeting is routine or novel."¹³⁴ There may be less need for specificity where a meeting subject occurs routinely, because members of the public are more likely to anticipate that the subject will be addressed.¹³⁵ "Novel issues may . . . require more specific notice."¹³⁶

Whether a meeting notice is reasonable, according to the court, "cannot be determined from the standpoint of when the meeting actually takes place," but rather must be "based upon what information is available to the officer noticing the meeting at the time the notice is provided, and based upon what it would be reasonable for the officer to know."¹³⁷ Once reasonable notice has been given, "meeting participants would be free to discuss any aspect of the noticed subject matter, as well as issues that are reasonably related to it."¹³⁸ However, "a meeting cannot address topics unrelated to the information in the notice."¹³⁹ The Attorney General has similarly advised, in an informal opinion, that if a meeting notice contains a general subject matter designation and a subject that was not specifically noticed comes up at the meeting, a governmental body should refrain from engaging in any information gathering or discussion or from taking any action that would deprive the public of information about the conduct of governmental business.¹⁴⁰

Whether a meeting notice reasonably apprises the public of the meeting's subject matter may also depend, in part, on the surrounding circumstances. A notice that might be adequate, standing alone, may nonetheless fail to provide reasonable notice if it is accompanied by other statements

¹²⁷ *Id.* ¶ 3.

¹²⁸ *Id.* ¶ 22.

¹²⁹ *Id.* ¶ 28.

¹³⁰ *Id.* ¶ 29.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.* ¶ 30.

¹³⁴ *Id.* ¶ 31.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.* ¶ 32.

¹³⁸ *Id.* ¶ 34.

¹³⁹ *Id.*

¹⁴⁰ I-05-93 (Apr. 26, 1993).

or actions that expressly contradict it, or if the notice is misleading when considered in the light of long-standing policies of the governmental body.¹⁴¹

In order to draft a meeting notice that complies with the reasonableness standard, a good rule of thumb is to ask whether a person interested in a specific subject would be aware, upon reading the notice, that the subject might be discussed. In an unpublished, post-*Buswell* decision, the court of appeals determined that a meeting notice for a closed session of a school board under Wis. Stat. § 19.85(1)(c) for the purpose of “[d]iscussion of the role, duties, and responsibilities of the [l]ibrary [d]irector and evaluation of job performance and possible action” gave sufficient public notice of the board’s discussion of the discipline and termination of the library director.¹⁴² The court reasoned that, under *Buswell*, the “sufficiency of the notice will be based on the knowledge of the person posting notice at the time when it is posted.”¹⁴³

- **Generic Agenda Items**

Purely generic subject matter designations such as “old business,” “new business,” “miscellaneous business,” “agenda revisions,” or “such other matters as are authorized by law” are insufficient because, standing alone, they identify no particular subjects at all.¹⁴⁴ Similarly, the use of a notice heading that merely refers to an earlier meeting of the governmental body (or of some other body) without identifying any particular subject of discussion is so lacking in informational value that it almost certainly fails to give the public reasonable notice of what the governmental body intends to discuss.¹⁴⁵ If such a notice is meant to indicate an intent to simply receive and approve minutes of the designated meeting, it should so indicate and discussion should be limited to whether the minutes accurately reflect the substance of that meeting.¹⁴⁶

Likewise, the Attorney General has advised that the practice of using such designations as “mayor comments,” “alderman comments,” or “staff comments” for the purpose of communicating information on matters within the scope of the governmental body’s authority “is, at best, at the outer edge of lawful practice, and may well cross the line to become unlawful.”¹⁴⁷ Because members and officials of governmental bodies have greater opportunities for input into the agenda-setting process than the public has, they should be held to a higher standard of specificity regarding the subjects they intend to address.¹⁴⁸

- **Action Agenda Items**

The Wisconsin Court of Appeals has noted that “Wis. Stat. § 19.84(2) does not expressly require that the notice indicate whether a meeting will be purely deliberative or if action will be taken.”¹⁴⁹ The *Buswell* decision inferred from the court of appeals that “adequate notice . . . may not require information about whether a vote on a subject will occur, so long as the subject matter of the vote

¹⁴¹ [Linde Correspondence](#) (May 4, 2007); [Koss Correspondence](#) (May 30, 2007); [Musolf Correspondence](#) (July 13, 2007); [Martinson Correspondence](#) (Mar. 2, 2009).

¹⁴² *State ex rel. Wanninger v. City of Manitowoc Pub. Libr. Bd.*, No. 2011AP1059, 2012 WL 1192048, ¶¶ 19–21 (Wis. Ct. App. Apr. 11, 2012) (unpublished).

¹⁴³ *Id.* ¶ 21 (citing *Buswell*, 2007 WI 71, ¶ 32).

¹⁴⁴ [Becker Correspondence](#) (Nov. 30, 2004); [Heupel Correspondence](#) (Aug. 29, 2006).

¹⁴⁵ [Erickson Correspondence](#) (Apr. 22, 2009).

¹⁴⁶ *Id.*

¹⁴⁷ [Rude Correspondence](#) (Mar. 5, 2004).

¹⁴⁸ [Thompson Correspondence](#) (Sept. 3, 2004).

¹⁴⁹ *State ex rel. Olson v. City of Baraboo Joint Rev. Bd.*, 2002 WI App 64, ¶ 15, 252 Wis. 2d 628, 643 N.W.2d 796.

is adequately specified.”¹⁵⁰ Both in *Olson* and in *Buswell*, however, the courts reiterated the principle—first recognized in *Badke*¹⁵¹—that the information in the notice must be sufficient to alert the public to the importance of the meeting, so that they can make an informed decision whether to attend.¹⁵² The *Olson* decision thus acknowledged that, in some circumstances, a failure to expressly state whether action will be taken at a meeting could be a violation of the open meetings law.¹⁵³ Although the courts have not articulated the specific standard to apply to this question, it appears to follow from *Buswell* that the test would be whether, under the particular factual circumstances of the case, the notice reasonably alerts the public to the importance of the meeting.¹⁵⁴

Another frequently asked question is whether a governmental body may act on a motion for reconsideration of a matter voted on at a previous meeting if the motion is brought under a general subject matter designation. The Attorney General has advised that a member may move for reconsideration under a general subject matter designation, but that any discussion or action on the motion should be set over to a later meeting for which specific notice of the subject matter of the motion is given.¹⁵⁵

- **Notice of Closed Sessions**

The notice provision in Wis. Stat. § 19.84(2) requires that if the chief presiding officer or the officer’s designee knows at the time he or she gives notice of a meeting that a closed session is contemplated, the notice must contain the subject matter to be considered in closed session. Such notice “must contain enough information for the public to discern whether the subject matter is authorized for closed session under § 19.85(1).”¹⁵⁶ The Attorney General has advised that notice of closed sessions must contain the specific nature of the business, as well as the exemption(s) under which the chief presiding officer believes a closed session is authorized.¹⁵⁷ Merely identifying and quoting from a statutory exemption does not reasonably identify any particular subject that might be taken up thereunder and thus is not adequate notice of a closed session.¹⁵⁸ In *State ex rel. Schaeve v. Van Lare*, the court held that a notice to convene in closed session under Wis. Stat. § 19.85(1)(b) “to conduct a hearing to consider the possible discipline of a public employee” was sufficient.¹⁵⁹

- **Time of Notice**

Wisconsin Statute § 19.84(3) requires that every public notice of a meeting be given at least 24 hours in advance of the meeting, unless “for good cause” such notice is “impossible or impractical.” If “good cause” exists, the notice should be given as soon as possible and must be given at least two hours in advance of the meeting.¹⁶⁰

No Wisconsin court decisions or Attorney General opinions discuss what constitutes “good cause” to provide less than twenty-four-hour notice of a meeting. This provision, like all other provisions of the open

¹⁵⁰ *Buswell*, 2007 WI 71, ¶ 37 n.7.

¹⁵¹ *Badke*, 173 Wis. 2d at 573-74, 577-78.

¹⁵² *Buswell*, 2007 WI 71, ¶ 26; *Olson*, 2002 WI App 64, ¶ 15.

¹⁵³ *Olson*, 2002 WI App 64, ¶ 15.

¹⁵⁴ *Herbst Correspondence* (July 16, 2008).

¹⁵⁵ *Bukowski Correspondence* (May 5, 1986).

¹⁵⁶ *Buswell*, 2007 WI 71, ¶ 37 n.7.

¹⁵⁷ 66 Op. Att’y Gen. 93, 98.

¹⁵⁸ *Weinschenk Correspondence* (Dec. 29, 2006); *Anderson Correspondence* (Feb. 13, 2007).

¹⁵⁹ *State ex rel. Schaeve v. Van Lare*, 125 Wis. 2d 40, 47, 370 N.W.2d 271 (Ct. App. 1985).

¹⁶⁰ Wis. Stat. § 19.84(3).

meetings law, must be construed in favor of providing the public with the fullest and most complete information about governmental affairs as is compatible with the conduct of governmental business.¹⁶¹ If there is any doubt whether “good cause” exists, the governmental body should provide the full twenty-four-hour notice.

When calculating the 24-hour notice period, Wis. Stat. § 990.001(4)(a) requires that Sundays and legal holidays be excluded. Posting notice of a Monday meeting on the preceding Sunday is, therefore, inadequate, but posting such notice on the preceding Saturday would suffice, as long as the posting location is open to the public on Saturdays.¹⁶²

Wisconsin Stat. § 19.84(4) provides that separate notice for each meeting of a governmental body must be given at a date and time reasonably close to the meeting date. A single notice that lists all the meetings that a governmental body plans to hold over a given week, month, or year does not comply with the notice requirements of the open meetings law.¹⁶³ Similarly, a meeting notice that states that a quorum of various town governmental bodies may participate at the same time in a multi-month, on-line discussion of town issues fails to satisfy the “separate notice” requirement.¹⁶⁴

University of Wisconsin departments and their subunits, as well as the Olympic ice training rink, are exempt from the specific notice requirements in Wis. Stat. § 19.84(1)–(4). Those bodies are simply required to provide notice “which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.”¹⁶⁵ Also exempt from the specific notice requirements are certain meetings of subunits of parent bodies held during or immediately before or after a meeting of the parent body.¹⁶⁶

- **Compliance with Notice**

A governmental body, when conducting a meeting, is free to discuss any aspect of any subject identified in the public notice of that meeting, as well as issues reasonably related to that subject, but may not address any topics that are not reasonably related to the information in the notice.¹⁶⁷ There is no requirement, however, that a governmental body must follow the agenda in the order listed on the meeting notice, unless a particular agenda item has been noticed for a specific time.¹⁶⁸ Nor is a governmental body required to actually discuss every item contained in the public notice. It is reasonable, in appropriate circumstances, for a body to cancel a previously planned discussion or postpone it to a later date.¹⁶⁹

Open Session Requirements

- **Accessibility**

In addition to requiring advance public notice of every meeting of a governmental body, the open meetings law also requires that “all meetings of all state and local governmental bodies shall be publicly held in places reasonably accessible to members of the public and shall be open to all citizens at all times.”¹⁷⁰ Similarly, an “open session” is defined as “a meeting which is held in a place reasonably accessible to

¹⁶¹ Wis. Stat. § 19.81(1), (4).

¹⁶² [Caylor Correspondence](#) (Dec. 6, 2007).

¹⁶³ See 63 Op. Att’y Gen. 509, 513.

¹⁶⁴ [Connors/Haag Correspondence](#) (May 26, 2009).

¹⁶⁵ Wis. Stat. § 19.84(5).

¹⁶⁶ See Wis. Stat. § 19.84(6).

¹⁶⁷ [Buswell](#), 2007 WI 71, ¶ 34.

¹⁶⁸ [Stencil Correspondence](#) (Mar. 6, 2008).

¹⁶⁹ [Black Correspondence](#) (Apr. 22, 2009).

¹⁷⁰ Wis. Stat. § 19.81(2).

members of the public and open to all citizens at all times.”¹⁷¹ Every meeting of a governmental body must initially be convened in “open session.”¹⁷² All business of any kind, formal or informal, must be initiated, discussed, and acted upon in “open session,” unless one of the exemptions set forth in Wis. Stat. § 19.85(1) applies.¹⁷³

The requirement that meeting locations be reasonably accessible to the public and open to all citizens at all times means that governmental bodies must hold their meetings in rooms that are reasonably calculated to be large enough to accommodate all citizens who wish to attend the meetings.¹⁷⁴ Absolute access is not, however, required.¹⁷⁵ In *Badke*, for instance, the Wisconsin Supreme Court concluded that a village board meeting that was held in a village hall capable of holding 55–75 people was reasonably accessible, although three members of the public were turned away due to overcrowding.¹⁷⁶ Whether a meeting place is reasonably accessible depends on the facts in each individual case. Any doubt as to whether a meeting facility—or remote meeting platform—has sufficient capacity to satisfy the requirement should be resolved in favor of holding the meeting in a larger facility and/or using a remote meeting platform with greater capacity.¹⁷⁷

- **In-Person Meetings**

The policy of openness and accessibility favors governmental bodies holding their meetings in public places, such as a municipal hall or school, rather than on private premises.¹⁷⁸ The law prohibits meetings on private premises that are not open and reasonably accessible to the public.¹⁷⁹ Generally speaking, places such as a private room in a restaurant or a dining room in a private club are not considered “reasonably accessible.” A governmental body should meet on private premises only in exceptional cases, where the governmental body has a specific reason for doing so which does not compromise the public’s right to information about governmental affairs.

The policy of openness and accessibility also requires that governmental bodies hold their meetings at locations near to the public they serve. Accordingly, the Attorney General has concluded that a school board meeting held forty miles from the district which the school board served was not “reasonably accessible” within the meaning of the open meetings law.¹⁸⁰ The Attorney General advises that, in order to comply with the “reasonably accessible” requirement, governmental bodies should conduct all their meetings at a location within the territory they serve, unless there are special circumstances that make it impossible or impractical to do so.¹⁸¹

Occasionally, a governmental body may need to leave the place where the meeting began in order to accomplish its business—e.g., inspection of a property or construction projects. The Attorney General’s Office has advised that such off-site business may be conducted consistently with the requirements of the open meetings law, as long as certain precautions are taken:

¹⁷¹ Wis. Stat. § 19.82(3).

¹⁷² See Wis. Stat. §§ 19.83, 19.85(1).

¹⁷³ Wis. Stat. § 19.83.

¹⁷⁴ *Badke*, 173 Wis. 2d at 580–81.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.* at 561, 563, 581.

¹⁷⁷ *Madsen Correspondence* (Jan. 27, 2023).

¹⁷⁸ See 67 Op. Att’y Gen. 125, 127 (1978).

¹⁷⁹ Wis. Stat. § 19.82(3).

¹⁸⁰ *Miller Correspondence* (May 25, 1977).

¹⁸¹ I-29-91 (Oct. 17, 1991).

- 1) First, the public notice of the meeting must list all of the locations to be visited in the order in which they will be visited. This makes it possible for a member of the public to follow the governmental body to each location or to join the governmental body at any particular location;
- 2) Second, each location at which government business is to be conducted must itself be reasonably accessible to the public at all times when such business is taking place; and
- 3) Third, care must be taken to ensure that government business is discussed only during those times when the members of the body are convened at one of the particular locations for which notice has been given. The members of the governmental body may travel together or separately, but if half or more of them travel together, they may not discuss government business when their vehicle is in motion, because a moving vehicle is not accessible to the public.¹⁸²

A governmental body holding an in-person meeting is encouraged to also offer a remote option for the public to attend such a meeting. However, the public's right to attend an in-person meeting of a governmental body cannot be limited to only remote options.

○ Remote Meetings

The open meetings law “does not require that all meetings be held in publicly owned places but rather, in places ‘reasonably accessible to members of the public.’”¹⁸³ Accordingly, the Attorney General has long advised that governmental bodies may convene their meetings via telephone or video conference.¹⁸⁴ It should be noted that the courts have not resolved the question of whether the practice of convening meetings in this matter is always permissible.¹⁸⁵

When an open meeting is held by teleconference or video conference, the public must have a means of monitoring the meeting. A governmental body will typically be able to meet this obligation by providing the public with information (in accordance with notice requirements) for joining the meeting remotely, even if there is no central in-person location at which the public can convene for the meeting. A governmental body conducting a meeting remotely should be mindful of the possibility that it may be particularly burdensome, or even infeasible, for one or more individuals who would like to observe a meeting to do so remotely—for example, for people without telephone or internet access or who are deaf or hard of hearing—and appropriate accommodations should be made to facilitate reasonable access to the meeting for such individuals.¹⁸⁶

The Attorney General's Office has advised that providing only remote access to an open meeting is not always permissible. For example, where a complex plan, drawing, or chart is needed for display or the demeanor of a witness is significant, a meeting held by telephone conference likely would not be “reasonably accessible” to the public because important aspects of the discussion or

¹⁸² [Rappert Correspondence](#) (Apr. 8, 1993); [Musolf Correspondence](#) (July 13, 2007).

¹⁸³ 69 Op. Att'y Gen. 143, 144 (1980) (quoting 47 Op. Att'y Gen. 126 (1978)).

¹⁸⁴ *Id.* at 146.

¹⁸⁵ Office of Open Government, Advisory, [Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 16, 2020); Office of Open Government, Advisory, [Additional Information Regarding Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 20, 2020); Office of Open Government, Advisory, [Sunshine Week and the Continued Importance of Ensuring that Open Meetings are Reasonably Accessible During the COVID-19 Pandemic](#) (Mar. 15, 2021).

¹⁸⁶ Office of Open Government, Advisory, [Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 16, 2020); Office of Open Government, Advisory, [Additional Information Regarding Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 20, 2020); Office of Open Government, Advisory, [Sunshine Week and the Continued Importance of Ensuring that Open Meetings are Reasonably Accessible During the COVID-19 Pandemic](#) (Mar. 15, 2021).

deliberation would not be communicated to the public.¹⁸⁷ Furthermore, what is considered “reasonably accessible” in certain circumstances, such as during a pandemic, during which health officials encourage social distancing, may be different than in other circumstances. Ultimately, whether a meeting is “reasonably accessible” is a factual question that must be determined on a case-by-case basis.¹⁸⁸

Wisconsin DOJ encouraged governmental bodies to retain practices adopted to promote transparency during the COVID-19 pandemic to the extent those practices increase accessibility. By maintaining a remote option for public access to meetings or posting recordings of meetings as soon as practicable after meetings conclude, governmental bodies can advance the open meetings law’s purpose of ensuring governmental openness and transparency.¹⁸⁹

- **Access for Persons with Disabilities**

The public accessibility requirements of the open meetings law have long been interpreted by the Attorney General as meaning that every meeting subject to the law must be held in a location that is “reasonably accessible to all citizens, including those with disabilities.”¹⁹⁰ In selecting a meeting facility that satisfies this requirement, a local governmental body has more leeway than does a state governmental body. For a state body, the facility must have physical characteristics that permit persons with functional limitations to enter, circulate, and leave the facility *without* assistance.¹⁹¹ In the case of a local governmental body, however, a meeting facility must have physical characteristics that permit persons with functional limitations to enter, circulate, and leave the facility *with* assistance.¹⁹² In order to optimally comply with the spirit of open government, however, local bodies should also, whenever possible, meet in buildings and rooms that are accessible without assistance.

The Americans with Disabilities Act and other federal laws governing the rights of persons with disabilities may additionally require governmental bodies to meet accessibility and reasonable accommodation requirements that exceed the requirements imposed by Wisconsin’s open meetings law. For more detailed assistance regarding such matters, both government officials and members of the public are encouraged to consult with their own attorneys or to contact the appropriate federal enforcement authorities.

- **Recording, Filming, and Photographing**

The open meetings law grants citizens the right to attend and observe meetings of governmental bodies that are held in open session. The open meetings law also specifies that citizens may record, film, or photograph open session meetings, as long as doing so does not disrupt the meeting. The law explicitly states that a governmental body must make a reasonable effort to accommodate anyone who wants to record, film, or photograph an open session meeting, as long as the activity does not interfere with the conduct of the meeting or the rights of the participants.¹⁹³

¹⁸⁷ See 69 Op. Att’y Gen. at 145.

¹⁸⁸ *Id.*; Office of Open Government, Advisory, [Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 16, 2020); Office of Open Government, Advisory, [Additional Information Regarding Coronavirus Disease 2019 \(COVID-19\) and Open Meetings](#) (Mar. 20, 2020); Office of Open Government, Advisory, [Sunshine Week and the Continued Importance of Ensuring that Open Meetings are Reasonably Accessible During the COVID-19 Pandemic](#) (Mar. 15, 2021).

¹⁸⁹ Office of Open Government, Advisory, [Sunshine Week and the Continued Importance of Ensuring that Open Meetings are Reasonably Accessible During the COVID-19 Pandemic](#) (Mar. 15, 2021).

¹⁹⁰ 69 Op. Att’y Gen. 251, 252 (1980).

¹⁹¹ See Wis. Stat. §§ 19.82(3), 101.13(1); 69 Op. Att’y Gen. at 252.

¹⁹² 69 Op. Att’y Gen. at 253.

¹⁹³ Wis. Stat. § 19.90.

In contrast, the open meetings law does not require a governmental body to permit recording of an authorized closed session.¹⁹⁴ If a governmental body wishes to record its own closed meetings, it should arrange for the security of the records to prevent their improper disclosure.¹⁹⁵

- **Citizen Participation**

In general, the open meetings law grants citizens the right to attend and observe open session meetings of governmental bodies, but does not require a governmental body to allow members of the public to speak or actively participate in the body's meeting.¹⁹⁶ There are some other state statutes that require governmental bodies to hold public hearings on specified matters.¹⁹⁷ Unless such a statute specifically applies, however, a governmental body is free to determine for itself whether and to what extent it will allow citizen participation at its meetings.¹⁹⁸

Although it is not required, the open meetings law does permit a governmental body to set aside a portion of an open meeting as a public comment period.¹⁹⁹ Such a period must be included on the meeting notice. During such a period, the body may receive information from the public and may discuss any matter raised by the public. If a member of the public raises a subject that does not appear on the meeting notice, however, it is advisable to limit the discussion of that subject and to defer any extensive deliberation to a later meeting for which more specific notice can be given. In addition, the body may not take formal action on a subject raised in the public comment period, unless that subject is also identified in the meeting notice.²⁰⁰

- **Ballots, Votes, and Records, Including Meeting Minutes**

No secret ballot may be used to determine any election or decision of a governmental body, except the election of officers of a body.²⁰¹ For example, a body cannot vote by secret ballot to fill a vacancy on a city council.²⁰² If a member of a governmental body requests that the vote of each member on a particular matter be recorded, a voice vote or a vote by a show of hands is not permissible unless the vote is unanimous and the minutes reflect who is present for the vote.²⁰³ A governmental body may not use email ballots to decide matters, even if the result of the vote is later ratified at a properly noticed meeting.²⁰⁴

The open meetings law requires a governmental body to create and preserve a record of all motions and roll-call votes at its meetings.²⁰⁵ This requirement applies to both open and closed sessions.²⁰⁶ Written minutes are the most common method used to comply with the requirement, but they are not the only permissible method. It can also be satisfied if the motions and roll-call votes are recorded and preserved in some other way, such as on a tape recording.²⁰⁷ As long as the body creates and preserves a record of all motions and roll-call votes, it is not required by the open meetings law to take more formal or detailed minutes of other aspects of the meeting. Other statutes outside the open meetings law, however, may

¹⁹⁴ 66 Op. Att'y Gen. 318, 325 (1977); [Maroney Correspondence](#) (Oct. 31, 2006).

¹⁹⁵ 66 Op. Att'y Gen. at 325.

¹⁹⁶ [Lundquist Correspondence](#) (Oct. 25, 2005).

¹⁹⁷ See, e.g., Wis. Stat. §§ 65.90(4) (requiring public hearing before adoption of a municipal budget), 66.1105(4)(a) (requiring public hearing before creation of a tax incremental finance district).

¹⁹⁸ [Zwieg Correspondence](#) (July 13, 2006); [Chiaverotti Correspondence](#) (Sept. 19, 2006).

¹⁹⁹ Wis. Stat. §§ 19.83(2), 19.84(2).

²⁰⁰ [Sayles Correspondence](#) (Aug. 4, 2017).

²⁰¹ Wis. Stat. § 19.88(1).

²⁰² 65 Op. Att'y Gen. 131 (1976).

²⁰³ I-95-89 (Nov. 13, 1989).

²⁰⁴ I-01-10 (Jan. 25, 2010).

²⁰⁵ Wis. Stat. § 19.88(3).

²⁰⁶ [De Moya Correspondence](#) (June 17, 2009).

²⁰⁷ I-95-89 (Nov. 13, 1989).

prescribe particular minute-taking requirements for certain governmental bodies and officials that go beyond what is required by the open meetings law.²⁰⁸

The open meetings law does not specify a timeframe in which a body must create a record of all motions and roll-call votes. In the absence of a specific statutory timeframe, issues can arise. In *Journal Times v. City of Racine Board of Police and Fire Commissioners*, the Racine Board of Police and Fire Commissioners voted on a motion in a closed session meeting, but did not contemporaneously create a record of the motion.²⁰⁹ Instead, the motion was included in the minutes of the meeting, which were not finished and approved by the Commission until three months after the meeting. In a non-party brief, Wisconsin DOJ argued that Wis. Stat. § 19.88(3) should be construed as requiring that a record of all motions must be made at the time of the meeting in question or as soon thereafter as practicable.²¹⁰ While the court resolved the case on other grounds without deciding this issue, as a best practice, it is advisable that the motions and roll call votes of a meeting of a governmental body be recorded at the time of the meeting or as soon thereafter as practicable.

Although Wis. Stat. § 19.88(3) does not indicate how detailed the record of motions and votes should be, the general legislative policy of the open meetings law is that “the public is entitled to the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business.”²¹¹ In light of that policy, it seems clear that a governmental body’s records should provide the public with a reasonably intelligible description of the essential substantive elements of every motion made, who initiated and seconded the motion, the outcome of any vote on the motion, and, if a roll-call vote, how each member voted.²¹²

Nothing in the open meetings law prohibits a body from making decisions by general consent, without a formal vote, but such informal procedures are typically only appropriate for routine procedural matters such as approving the minutes of prior meetings or adjourning. In any event, regardless of whether a decision is made by consensus or by some other method, Wis. Stat. § 19.88(3) still requires the body to create and preserve a meaningful record of that decision.²¹³ “Consent agendas,” whereby a body discusses individual items of business under separate agenda headings, but takes action on all discussed items by adopting a single motion to approve all the items previously discussed, are likely insufficient to satisfy the recordkeeping requirements of Wis. Stat. § 19.88(3).²¹⁴

Wisconsin Stat. § 19.88(3) also provides that meeting records created under that statute—whether for an open or a closed session—must be open to public inspection to the extent prescribed in the state public records law. Because the records law contains no general exemption for records created during a closed session, a custodian must release such items unless the particular record at issue is subject to a specific statutory exemption or the custodian concludes that the harm to the public from its release would outweigh the benefit to the public.²¹⁵ There is a strong presumption under the public records law that release of records is in the public interest. As long as the reasons for convening in closed session continue to exist, however, the custodian may be able to justify not disclosing any information that requires confidentiality. But the custodian still must separate information that can be made public from that which cannot and must disclose the former, even if the latter can be withheld. In addition, once the underlying purpose for the

²⁰⁸ [I-20-89](#) (Mar. 8, 1989); see, e.g., Wis. Stat. §§ 59.23(2)(a) (county clerk), 60.33(2)(a) (town clerk), 61.25(3) (village clerk), 62.09(11)(b) (city clerk), 62.13(5)(i) (police and fire commission), 66.1001(4)(b) (plan commission), 70.47(7)(bb) (board of review).

²⁰⁹ *J. Times v. City of Racine Bd. of Police & Fire Comm’rs*, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563.

²¹⁰ Non-party Brief of Wisconsin Department of Justice at 6, *J. Times v. City of Racine Bd. of Police & Fire Comm’rs*, 2015 WI 56 (No. 2013AP1715).

²¹¹ Wis. Stat. § 19.81(1).

²¹² [De Moya Correspondence](#) (June 17, 2009).

²¹³ [Huebscher Correspondence](#) (May 23, 2008).

²¹⁴ [Perlick Correspondence](#) (May 12, 2005).

²¹⁵ [De Moya Correspondence](#) (June 17, 2009).

closed session ceases to exist, all records of the session must then be provided to any person requesting them.²¹⁶

WHEN IS IT PERMISSIBLE TO CONVENE IN CLOSED SESSION?

Every meeting of a governmental body must initially be convened in open session. All business of any kind, formal or informal, must be initiated, discussed, and acted upon in open session unless one of the exemptions in Wis. Stat. § 19.85(1) applies.²¹⁷

Notice of Closed Session

The notice provision in Wis. Stat. § 19.84(2) requires that, if the chief presiding officer of a governmental body is aware that a closed session is contemplated at the time he or she gives public notice of the meeting, the notice must contain the subject matter of the closed session.

If the chief presiding officer was not aware of a contemplated closed session at the time he or she gave notice of the meeting, that does not foreclose a governmental body from going into closed session under Wis. Stat. § 19.85(1) to discuss an item contained in the notice for the open session.²¹⁸ In both cases, a governmental body must follow the procedure set forth in Wis. Stat. § 19.85(1) before going into closed session.

Procedure for Convening in Closed Session

Every meeting of a governmental body must initially be convened in open session.²¹⁹ Before convening in closed session, the governmental body must follow the procedure set forth in Wis. Stat. § 19.85(1) which requires that the governmental body pass a motion, by recorded majority vote, to convene in closed session. If a motion is unanimous, there is no requirement to record the votes individually.²²⁰ Before the governmental body votes on the motion, the chief presiding officer must announce and record in open session the nature of the business to be discussed and the specific statutory exemption which is claimed to authorize the closed session.²²¹ Stating only the statute section number of the applicable exemption is not sufficient because many exemptions contain more than one reason for authorizing closure. For example, Wis. Stat. § 19.85(1)(c) allows governmental bodies to use closed sessions to interview candidates for positions of employment, to consider promotions of particular employees, to consider the compensation of particular employees, and to conduct employee evaluations—each of which is a different reason that should be identified in the meeting notice and in the motion to convene into closed session.²²² Similarly, merely identifying and quoting from a statutory exemption does not adequately announce what particular part of the governmental body's business is to be considered under that exemption.²²³ Enough specificity is needed in describing the subject matter of the contemplated closed meeting to enable the members of the governmental body to intelligently vote on the motion to close the meeting.²²⁴ If several exemptions are relied on to authorize a closed discussion of several subjects, the motion should make it clear which exemptions correspond

²¹⁶ See 67 Op. Att'y Gen. 117, 119 (1978).

²¹⁷ Wis. Stat. § 19.83.

²¹⁸ 66 Op. Att'y Gen. 106, 108 (1977).

²¹⁹ Wis. Stat. §§ 19.83, 19.85(1).

²²⁰ *Schaeve*, 125 Wis. 2d at 51.

²²¹ 66 Op. Att'y Gen. 93, 97-98.

²²² Reynolds/Kreibich Correspondence (Oct. 23, 2003).

²²³ Weinschenk Correspondence (Dec. 29, 2006); Anderson Correspondence (Feb. 13, 2007).

²²⁴ Heule Correspondence (June 29, 1977); see also *Buswell*, 2007 WI 71, ¶ 37 n.7.

to which subjects.²²⁵ The governmental body must limit its discussion in closed session to the business specified in the announcement.²²⁶

Authorized Closed Sessions

Wisconsin Stat. § 19.85(1) contains eleven exemptions to the open session requirement which permit, but do not require, a governmental body to convene in closed session.²²⁷ Because the law is designed to provide the public with the most complete information possible regarding the affairs of government, exemptions should be strictly construed.²²⁸ The policy of the open meetings law dictates that the exemptions be invoked sparingly and only where necessary to protect the public interest. If there is any doubt as to whether closure is permitted under a given exemption, the governmental body should hold the meeting in open session.²²⁹

The following are some of the most frequently cited exemptions.

- **Judicial or Quasi-Judicial Hearings**

Wisconsin Stat. § 19.85(1)(a) authorizes a closed session for “[d]eliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.” In order for this exemption to apply, there must be a “case” that is the subject of a quasi-judicial proceeding.²³⁰ The Wisconsin Supreme Court held that the term “case” contemplates a controversy among parties that are adverse to one another; it does not include a mere request for a permit.²³¹ An example of a governmental body that considers “cases” and thus can convene in closed session under Wis. Stat. § 19.85(1)(a), where appropriate, is the Wisconsin Employment Relations Commission.²³² However, bodies that consider zoning appeals, such as boards of zoning appeals and boards of adjustment, may not convene in closed session.²³³ Additionally, the meetings of town, village, and city boards of review regarding appeals of property tax assessments must also be conducted in open session.²³⁴

- **Employment and Licensing Matters**

- **Consideration of Dismissal, Demotion, Discipline, Licensing, and Tenure**

Two of the statutory exemptions to the open session requirement relate specifically to employment or licensing of an individual. The first, Wis. Stat. § 19.85(1)(b), authorizes a closed session for:

Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter

²²⁵ [Brisco Correspondence](#) (Dec. 13, 2005).

²²⁶ Wis. Stat. § 19.85(1).

²²⁷ [Krueger Correspondence](#) (Feb. 13, 2019).

²²⁸ *State ex rel. Hodge v. Town of Turtle Lake*, 180 Wis. 2d 62, 71, 508 N.W.2d 603 (1993); *Citizens for Responsible Dev.*, 2007 WI App 114, ¶ 8.

²²⁹ See 74 Op. Att’y Gen. 70, 73 (1985).

²³⁰ *Hodge*, 180 Wis. 2d at 72; cf. *State ex rel. Cities Serv. Oil Co. v. Bd. of Appeals of Milwaukee*, 21 Wis. 2d 516, 537, 124 N.W.2d 809 (1963) (allowing zoning appeal boards to deliberate in closed session after hearing, decided before the Legislature added the “case” requirement in 1977).

²³¹ *Hodge*, 180 Wis. 2d at 74.

²³² 68 Op. Att’y Gen. 171 (1979).

²³³ Wis. Stat. §§ 59.694 (counties), 60.65(5) (towns), 62.23(7)(e)3. (cities); [White Correspondence](#) (May 1, 2009).

²³⁴ Wis. Stat. § 70.47(2m).

If a closed session for such a purpose will include an evidentiary hearing or final action, then the governmental body must give the public employee or licensee actual notice of that closed hearing and/or closed final action. Evidentiary hearings are characterized by the formal examination of charges and by taking testimony and receiving evidence in support or defense of specific charges that may have been made.²³⁵ Such hearings may be required by statute, ordinance or rule, by collective bargaining agreement, or by circumstances in which the employee or licensee is the subject of charges that might damage the person's good name, reputation, honor or integrity, or where the governmental body's action might impose substantial stigma or disability upon the person.²³⁶

Where actual notice is required, the notice must state that the person has a right to request that any such evidentiary hearing or final action be conducted in open session. If the person makes such a request, the governmental body may not conduct an evidentiary hearing or take final action in closed session. The body may, however, convene in closed session under Wis. Stat. § 19.85(1)(b) for the purpose of deliberating about the dismissal, demotion, licensing, discipline, or investigation of charges. Following such closed deliberations, the body may reconvene in open session and take final action related to the person's employment or license.²³⁷

Nothing in Wis. Stat. § 19.85(1) permits a person who is not a member of the governmental body to demand that the body meet in closed session. The Wisconsin Court of Appeals held that a governmental body was not required to comply with a public employee's request that the body convene in closed session to vote on the employee's dismissal.²³⁸

○ **Consideration of Employment, Promotion, Compensation, and Performance Evaluations**

The second exemption which relates to employment matters authorizes a closed session for "[c]onsidering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility."²³⁹

The Attorney General's Office has interpreted this exemption to extend to public officers, such as a police chief, whom the governmental body has jurisdiction to employ.²⁴⁰ The Attorney General's Office has also concluded that this exemption is sufficiently broad to authorize convening in closed session to interview and consider applicants for positions of employment.²⁴¹

An elected official is not considered a "public employee over which the governmental body has jurisdiction or exercises responsibility."²⁴² Thus, Wis. Stat. § 19.85(1)(c) does not authorize a county board to convene in closed session to consider appointments of county board members to a county board committee.²⁴³

²³⁵ 66 Op. Att'y Gen. 211, 214 (1977).

²³⁶ *Id.*

²³⁷ See *State ex rel. Epping v. City of Neillsville Common Council*, 218 Wis. 2d 516, 581 N.W.2d 548 (Ct. App. 1998); *Johnson Correspondence* (Feb. 27, 2009).

²³⁸ *Schaeve*, 125 Wis. 2d at 40.

²³⁹ Wis. Stat. § 19.85(1)(c).

²⁴⁰ *Caturia Correspondence* (Sept. 20, 1982).

²⁴¹ *Id.*

²⁴² Wis. Stat. § 19.85(1)(c).

²⁴³ 76 Op. Att'y Gen. 276 (1987).

The language of the exemption refers to a “public employee” rather than to positions of employment in general. The apparent purpose of the exemption is to protect individual employees from having their actions and abilities discussed in public and to protect governmental bodies “from potential lawsuits resulting from open discussion of sensitive information.”²⁴⁴ It is not the purpose of the exemption to protect a governmental body when it discusses general policies that do not involve identifying specific employees.²⁴⁵ Thus, Wis. Stat. § 19.85(1)(c) authorizes a closed session to discuss the qualifications of and salary to offer a specific applicant but does not authorize a closed session to discuss the qualifications and salary range for the position in general.²⁴⁶ The section authorizes closure to determine increases in compensation for specific employees.²⁴⁷ Similarly, Wis. Stat. § 19.85(1)(c) authorizes closure to determine which employees to lay off, or whether to non-renew an employee’s contract at the expiration of the contract term,²⁴⁸ but not to determine whether to reduce or increase staffing, in general.

- **Consideration of Financial, Medical, Social, or Personal Information**

The exemption in Wis. Stat. § 19.85(1)(f) authorizes a closed session for:

Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

An example of this is where a state employee was alleged to have violated a state law.²⁴⁹ This exemption is not limited to considerations involving public employees. For example, the Attorney General concluded that, in an exceptional case, a school board could convene in closed session under the exemption to interview a candidate to fill a vacancy on the school board if information is expected to damage a reputation, however, the vote should be in open session.²⁵⁰

At the same time, the Attorney General cautioned that the exemption in Wis. Stat. § 19.85(1)(f) is extremely limited. It applies only where a member of a governmental body has actual knowledge of information that will have a substantial adverse effect on the person mentioned or involved. Moreover, the exemption authorizes closure only for the duration of the discussions about the information specified in Wis. Stat. § 19.85(1)(f). Thus, the exemption would not authorize a school board to actually appoint a new member to the board in closed session.²⁵¹

- **Conducting Public Business with Competitive or Bargaining Implications**

A closed session is also authorized for “[d]eliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.”²⁵² This exemption is not limited to deliberating or negotiating

²⁴⁴ *Oshkosh Nw. Co. v. Oshkosh Libr. Bd.*, 125 Wis. 2d 480, 486, 373 N.W.2d 459 (Ct. App. 1985).

²⁴⁵ See 80 Op. Att’y Gen. 176, 177–78 (1992); see also *Buswell*, 2007 WI 71, ¶ 37 (noting that Wis. Stat. § 19.85(1)(c) “provides for closed sessions for considering matters related to individual employees”).

²⁴⁶ 80 Op. Att’y Gen. at 178–82.

²⁴⁷ 67 Op. Att’y Gen. 117, 118.

²⁴⁸ See 66 Op. Att’y Gen. 211, 213.

²⁴⁹ See *Wis. State J. v. Univ. of Wis.-Platteville*, 160 Wis. 2d 31, 38, 465 N.W.2d 266 (Ct. App. 1990).

²⁵⁰ 74 Op. Att’y Gen. 70, 72.

²⁵¹ *Id.*

²⁵² Wis. Stat. § 19.85(1)(e).

the purchase of public property or the investing of public funds. For example, the Attorney General has determined that the exemption authorized a school board to convene in closed session to develop negotiating strategies for collective bargaining.²⁵³

Governmental officials must keep in mind, however, that this exemption applies only when “competitive or bargaining reasons require a closed session.”²⁵⁴ The exemption is restrictive rather than expansive.²⁵⁵ When a governmental body seeks to convene in closed session under Wis. Stat. § 19.85(1)(e), the burden is on the body to show that competitive or bargaining interests require closure.²⁵⁶ An announcement of a contemplated closed session under Wis. Stat. § 19.85(1)(e) that provides only a conclusory assertion that the subject of the session will involve competitive or bargaining issues is inadequate because it does not reflect how the proposed discussion would implicate the competitive or bargaining interests of the body or the body’s basis for concluding that the subject falls within the exemption.²⁵⁷

The use of the word “require” in Wis. Stat. § 19.85(1)(e) limits that exemption to situations in which competitive or bargaining reasons leave a governmental body with no option other than to close the meeting.²⁵⁸ In *Citizens for Responsible Development*, the court found that a desire or request for confidentiality by a private developer engaged in negotiations with a city was not sufficient to justify a closed session for competitive or bargaining reasons.²⁵⁹ Nor did the fear that public statements might attract the attention of potential private competitors for the developer justify closure under this exemption, because the court found that such competition would be likely to benefit, rather than harm, the city’s competitive or bargaining interests.²⁶⁰ Similarly, holding closed meetings about ongoing negotiations between the city and private parties would not prevent those parties from seeking a better deal elsewhere. The possibility of such competition, therefore, also did not justify closure under Wis. Stat. § 19.85(1)(e).²⁶¹ The exemption did, however, allow the city to close those *portions* of its meetings that would reveal its negotiation strategy or the price it planned to offer for a purchase of property, but it could not close other parts of the meetings.²⁶² The competitive or bargaining interests to be protected by a closed session under Wis. Stat. § 19.85(1)(e) do not have to be shared by every member of the body or by every municipality participating in an intergovernmental body.²⁶³

Consistent with the above emphasis on the word “require” in Wis. Stat. § 19.85(1)(e), the Attorney General has advised that mere inconvenience, delay, embarrassment, frustration, or even speculation as to the probability of success would be an insufficient basis to close a meeting.²⁶⁴ Competitive or bargaining reasons permit a closed session where the discussion will directly and substantially affect negotiations with a third party, but not where the discussions might be one of several factors that indirectly influence the outcome of those negotiations.²⁶⁵ The meetings of a governmental body also may not be closed in a blanket manner merely because they may at times involve competitive or bargaining issues, but rather may only be closed on those occasions when the particular meeting is going to involve discussion which, if held in open session, would harm the competitive or bargaining interests at issue.²⁶⁶ Once a governmental body’s

²⁵³ 66 Op. Att’y Gen. 93, 96 (the opinion advised that governmental bodies that are not formed exclusively for collective bargaining comply with the open meetings law when meeting for the purpose of developing negotiating strategy).

²⁵⁴ Wis. Stat. § 19.85(1)(e).

²⁵⁵ *Citizens for Responsible Dev.*, 2007 WI App 114, ¶¶ 6–8.

²⁵⁶ *Id.* ¶ 10.

²⁵⁷ *Wirth/Lamoreaux Correspondence* (May 30, 2007).

²⁵⁸ *Citizens for Responsible Dev.*, 2007 WI App 114, ¶ 14.

²⁵⁹ *Id.* ¶¶ 13–14.

²⁶⁰ *Id.* ¶ 14 n.6.

²⁶¹ *Id.* ¶¶ 15–16.

²⁶² *Id.* ¶ 19.

²⁶³ *State ex rel. Herro v. Village of McFarland*, 2007 WI App 172, ¶¶ 16–19, 303 Wis. 2d 749, 737 N.W.2d 55.

²⁶⁴ *Gempeler Correspondence* (Feb. 12, 1979).

²⁶⁵ *Henderson Correspondence* (Mar. 24, 1992).

²⁶⁶ I-04-09 (Sept. 28, 2009).

bargaining team has reached a tentative agreement, the discussion whether the body should ratify the agreement should be conducted in open session.²⁶⁷

- **Conferring with Legal Counsel with Respect to Litigation**

The exemption in Wis. Stat. § 19.85(1)(g) authorizes a closed session for “[c]onfering with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.”

The presence of the governmental body’s legal counsel is not, in itself, sufficient reason to authorize closure under this exemption. The exemption applies only if the legal counsel is rendering advice on strategy to adopt for litigation in which the governmental body is or is likely to become involved.

There is no clear-cut standard for determining whether a governmental body is “likely” to become involved in litigation. Members of a governmental body should rely on the body’s legal counsel for advice on whether litigation is sufficiently “likely” to authorize a closed session under Wis. Stat. § 19.85(1)(g).

- **Remaining Exemptions**

The remaining exemptions in Wis. Stat. § 19.85(1) authorize closure for:

1. Considering applications for probation or parole, or considering strategy for crime detection or prevention.²⁶⁸
2. Specified deliberations by the state council on unemployment insurance and the state council on worker’s compensation.²⁶⁹
3. Specified deliberations involving the location of a burial site.²⁷⁰
4. Consideration of requests for confidential written advice from the government accountability board or from any county or municipal ethics board.²⁷¹

In addition to the Wis. Stat. § 19.85(1) exemptions discussed above, Wis. Stat. § 19.851 authorizes the ethics commission or elections commission to convene in closed session for the following purposes:

1. To consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring based on a complaint and, if received, a response to that complaint.²⁷²
2. To receive reports concerning audit findings and consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring.²⁷³

²⁶⁷ 81 Op. Att’y Gen. 139, 141 (1994).

²⁶⁸ Wis. Stat. § 19.85(1)(d).

²⁶⁹ Wis. Stat. § 19.85(1)(ee), (eg).

²⁷⁰ Wis. Stat. § 19.85(1)(em).

²⁷¹ Wis. Stat. § 19.85(1)(h).

²⁷² Wis. Stat. § 19.851(3)(a).

²⁷³ Wis. Stat. § 19.851(3)(b).

Who May Attend a Closed Session

A frequently asked question concerns who may attend the closed session meetings of a governmental body. In general, the open meetings law gives wide discretion to a governmental body to admit into a closed session anyone whose presence the body determines is necessary for the consideration of the matter that is the subject of the meeting.²⁷⁴ If the governmental body is a subunit of a parent body, the subunit must allow members of the parent body to attend its open session and closed session meetings, unless the rules of the parent body or subunit provide otherwise.²⁷⁵ Where enough non-members of a subunit attend the subunit's meetings that a quorum of the parent body is present, a meeting of the parent body occurs, and the notice requirements of Wis. Stat. § 19.84 apply.²⁷⁶

Voting in an Authorized Closed Session

The Wisconsin Supreme Court has held that Wis. Stat. § 14.90 (1959), a predecessor to the current open meetings law, authorized a governmental body to vote in closed session on matters that were the legitimate subject of deliberation in closed session.²⁷⁷ The court reasoned that “voting is an integral part of deliberating and merely formalizes the result reached in the deliberating process.”²⁷⁸

In *Schaeve*,²⁷⁹ the Wisconsin Court of Appeals commented on the propriety of voting in closed session under the current open meetings law. The court indicated that a governmental body must vote in open session unless an exemption in Wis. Stat. § 19.85(1) expressly authorizes voting in closed session.²⁸⁰ The court's statement was not essential to its holding and it is unclear whether the supreme court would adopt a similar interpretation of the current open meetings law.

Given this uncertainty, the Attorney General advises that a governmental body vote in open session, unless the vote is clearly an integral part of deliberations authorized to be conducted in closed session under Wis. Stat. § 19.85(1). Stated another way, a governmental body should vote in open session, unless doing so would compromise the need for the closed session.²⁸¹

None of the exemptions in Wis. Stat. § 19.85(1) authorize a governmental body to consider the ratification or final approval of a collective bargaining agreement negotiated by or for the body in closed session.²⁸²

Reconvening in Open Session

A governmental body may not commence a meeting, convene in closed session, and subsequently reconvene in open session within 12 hours after completion of a closed session, unless public notice of the subsequent open session is given “at the same time and in the same manner” as the public notice of the prior open session.²⁸³ The notice need not specify the time the governmental body expects to reconvene in open session if the body plans to reconvene immediately following the closed session. If the notice does specify the time, the body must wait until that time to reconvene in open session. When a governmental body reconvenes in open session following a closed

²⁷⁴ [Schuh Correspondence](#) (Dec. 15, 1988).

²⁷⁵ Wis. Stat. § 19.89.

²⁷⁶ *Badke*, 173 Wis. 2d at 579.

²⁷⁷ *Cities Serv. Oil Co.*, 21 Wis. 2d at 538.

²⁷⁸ *Id.* at 539.

²⁷⁹ *Schaeve*, 125 Wis. 2d at 53.

²⁸⁰ *Id.*

²⁸¹ *Accord Epping*, 218 Wis. 2d at 524 n.4 (even if deliberations were conducted in an unlawful closed session, a subsequent vote taken in open session could not be voided).

²⁸² Wis. Stat. § 19.85(3); [81 Op. Att’y Gen. 139](#).

²⁸³ Wis. Stat. § 19.85(2).

session, the presiding officer has a duty to open the door of the meeting room and inform any members of the public present that the session is open.²⁸⁴

WHO ENFORCES THE OPEN MEETINGS LAW AND WHAT ARE ITS PENALTIES?

Enforcement

Both the Attorney General and the district attorneys have authority to enforce the open meetings law.²⁸⁵ In most cases, enforcement at the local level has the greatest chance of success due to the need for intensive factual investigation, the district attorneys' familiarity with the local rules of procedure, and the need to assemble witnesses and material evidence.²⁸⁶ Under certain circumstances, the Attorney General may elect to prosecute complaints involving a matter of statewide concern.

A district attorney has authority to enforce the open meetings law only after an individual files a verified open meetings law complaint with the district attorney.²⁸⁷ Actions to enforce the open meetings law are exempt from the notice of claim requirements of Wis. Stat. § 893.80.²⁸⁸ The verified complaint must be signed by the individual and notarized and should include available information that will be helpful to investigators, such as: identifying the governmental body and any members thereof alleged to have violated the law; describing the factual circumstances of the alleged violations; identifying witnesses with relevant evidence; and identifying any relevant documentary evidence. The district attorney has broad discretion to determine whether a verified complaint should be prosecuted.²⁸⁹ An enforcement action brought by a district attorney or by the Attorney General must be commenced within two years after the cause of action accrues or be barred.²⁹⁰

Proceedings to enforce the open meetings law are civil actions subject to the rules of civil procedure, rather than criminal procedure, and governed by the ordinary civil standard of proof, rather than a heightened standard of proof such as would apply in a criminal or quasi-criminal proceeding. Accordingly, enforcement of the open meetings law does not involve such practices as arrest, posting bond, entering criminal-type pleas, or any other aspects of criminal procedure. Rather, an open meetings law enforcement action is commenced like any civil action by filing and serving a summons and complaint. In addition, the open meetings law cannot be enforced by the issuance of a citation, in the way that other civil forfeitures are often enforced, because citation procedures are inconsistent with the statutorily-mandated verified complaint procedure.²⁹¹

If the district attorney refuses to commence an open meetings law enforcement action or otherwise fails to act within 20 days of receiving a complaint, the individual who filed the complaint has a right to bring an action, in the name of the state, to enforce the open meetings law.²⁹² Although an individual may not bring a private enforcement action prior to the expiration of the district attorney's twenty-day review period, the district attorney may still commence an action even though more than 20 days have passed. It is not uncommon for the review and investigation of open meetings complaints to take longer than 20 days.

²⁸⁴ [Claybaugh Correspondence](#) (Feb. 16, 2006).

²⁸⁵ Wis. Stat. § 19.97(1).

²⁸⁶ [65 Op. Att'y Gen. Preface](#), ii.

²⁸⁷ See Wis. Stat. § 19.97(1).

²⁸⁸ *E-Z Roll Off, LLC v. Oneida County*, 2011 WI 71, ¶ 21, 335 Wis. 2d 720, 800 N.W.2d 421 (citing *State ex rel. Auchinleck v. Town of LaGrange*, 200 Wis. 2d 585, 597, 547 N.W.2d 587 (1996)).

²⁸⁹ *State v. Karpinski*, 92 Wis. 2d 599, 607, 285 N.W.2d 729 (1979).

²⁹⁰ See Wis. Stat. § 893.93(2)(a).

²⁹¹ [Zwieg Correspondence](#) (Mar. 10, 2005).

²⁹² *Lawton*, 2005 WI App 16, ¶ 15; Wis. Stat. § 19.97(4); see also *Fabyan v. Achtenhagen*, 2002 WI App 214, ¶¶ 10-13, 257 Wis. 2d 310, 652 N.W.2d 649 (complaint under Wis. Stat. § 19.97 must be brought in the name of and on behalf of the state; *i.e.*, the caption must bear the title "State ex rel." or the court lacks competency to proceed).

Court proceedings brought by private relators to enforce the open meetings law must be commenced prior to the expiration of the two year statute of limitation. If the action is not brought forth within two years after the cause of action accrues, the proceedings will be barred.²⁹³ If a private relator brings an enforcement action and prevails, the court is authorized to grant broad relief, including a declaration that the law was violated, civil forfeitures where appropriate, and the award of the actual and necessary costs of prosecution, including reasonable attorney fees.²⁹⁴ Attorney fees will be awarded under this provision where such an award will provide an incentive to other private parties to similarly vindicate the public's rights to open government and will deter governmental bodies from skirting the open meetings law.²⁹⁵

Relief for alleged violations of the open meetings law cannot be sought under the public records law. In *Journal Times*,²⁹⁶ the plaintiff newspaper brought a mandamus action under Wis. Stat. § 19.37(2)(a), claiming, in part, that the defendant commission, by not contemporaneously creating a record of a motion at a closed-session meeting, had violated the requirement in Wis. Stat. § 19.88(3) of the open meetings law that all motions and roll call votes must be recorded, preserved, and open to public inspection to the extent required by the public records law. The court held, in part, that the newspaper could not seek relief under the public records law for the alleged violation of the open meetings law.²⁹⁷

Penalties

Any member of a governmental body who “knowingly” attends a meeting held in violation of the open meetings law, or otherwise violates the law, is subject to a forfeiture of between \$25 and \$300 for each violation.²⁹⁸ Any forfeiture obtained in an action brought by the district attorney is awarded to the county.²⁹⁹ Any forfeiture obtained in an action brought by the Attorney General or a private citizen is awarded to the state.³⁰⁰

The Wisconsin Supreme Court has defined “knowingly” as not only positive knowledge of the illegality of a meeting, but also awareness of the high probability of the meeting’s illegality or conscious avoidance of awareness of the illegality.³⁰¹ The court also held that knowledge is not required to impose forfeitures on an individual for violating the open meetings law by means other than attending a meeting held in violation of the law. Examples of “other violations” are failing to give the required public notice of a meeting or failing to follow the procedure for closing a session.³⁰²

A member of a governmental body who is charged with knowingly attending a meeting held in violation of the law may raise one of two defenses: (1) that the member made or voted in favor of a motion to prevent the violation; or (2) that the member’s votes on all relevant motions prior to the violation were inconsistent with the cause of the violation.³⁰³

A member who is charged with a violation other than knowingly attending a meeting held in violation of the law may be permitted to raise the additional statutory defense that the member did not act in his or her official capacity. In addition, in *Swanson*,³⁰⁴ and *Hodge*,³⁰⁵ the Wisconsin Supreme Court intimated that a member of a governmental

²⁹³ Wis. Stat. § 893.93(2)(a); *State ex rel. Leung v. City of Lake Geneva*, 2003 WI App 129, ¶ 6, 265 Wis. 2d 674, 666 N.W.2d 104.

²⁹⁴ Wis. Stat. § 19.97(4).

²⁹⁵ *Buswell*, 2007 WI 71, ¶ 54.

²⁹⁶ *J. Times*, 2015 WI 56.

²⁹⁷ *Id.* ¶ 51.

²⁹⁸ Wis. Stat. § 19.96.

²⁹⁹ Wis. Stat. § 19.97(1).

³⁰⁰ Wis. Stat. § 19.97(1), (2), (4).

³⁰¹ *Swanson*, 92 Wis. 2d at 319.

³⁰² *Id.* at 321.

³⁰³ Wis. Stat. § 19.96.

³⁰⁴ *Swanson*, 92 Wis. 2d at 319.

³⁰⁵ *Hodge*, 180 Wis. 2d at 80.

body can avoid liability if he or she can factually prove that he or she relied, in good faith and in an open and unconcealed manner, on the advice of counsel whose statutory duties include the rendering of legal opinions as to the actions of the body.³⁰⁶

A governmental body may not reimburse a member for a forfeiture incurred as a result of a violation of the law, unless the enforcement action involved a real issue as to the constitutionality of the open meetings law.³⁰⁷ Although it is not required to do so, a governmental body may reimburse a member for his or her reasonable attorney fees in defending against an enforcement action and for any plaintiff's attorney fees that the member is ordered to pay. The city attorney may represent city officials in open meetings law enforcement actions.³⁰⁸

In addition to the forfeiture penalty, Wis. Stat. § 19.97(3) provides that a court may void any action taken at a meeting held in violation of the open meetings law if the court finds that the interest in enforcing the law outweighs any interest in maintaining the validity of the action. Thus, in *Hodge*,³⁰⁹ the court voided the town board's denial of a permit, taken after an unauthorized closed session deliberation about whether to grant or deny the permit.³¹⁰ A court may award any other appropriate legal or equitable relief, including declaratory and injunctive relief.³¹¹

In enforcement actions seeking forfeitures, the provisions of the open meetings law must be narrowly construed due to the penal nature of forfeiture. In all other actions, the provisions of the law must be liberally construed to ensure the public's right to "the fullest and most complete information regarding the affairs of government as is compatible with the conduct of governmental business."³¹² Thus, it is advisable to prosecute forfeiture actions separately from actions seeking other types of relief under the open meetings law.

Interpretation by Attorney General

In addition to the methods of enforcement discussed above, the Attorney General also has express statutory authority to respond to requests for advice from any person as to the applicability of the open meetings and public records laws.³¹³ This differs from other areas of law, in which the Attorney General is only authorized to give legal opinions or advice to specified governmental officials and agencies. Because the Legislature has expressly authorized the Attorney General to interpret the open meetings law, the Wisconsin Supreme Court has acknowledged that the Attorney General's opinions in this area should be given substantial weight.³¹⁴

Citizens with questions about matters outside the scope of the open meetings and public records laws should seek assistance from a private attorney. Citizens and public officials with questions about the open meetings law or the public records law are advised to first consult the applicable statutes, the corresponding discussions in this

³⁰⁶ See *State v. Tereschko*, No. 00-3290, 2001 WL 537491, ¶¶ 9–10 (Wis. Ct. App. May 22, 2001) (unpublished) (declining to find a knowing violation where school board members relied on the advice of counsel in going into closed session); *State v. Davis*, 63 Wis. 2d 75, 82, 216 N.W.2d 31 (1974) (interpreting Wis. Stat. § 946.13(1) (private interest in public contract)); cf. *J./Sentinel, Inc. v. Shorewood Sch. Bd.*, 186 Wis. 2d 443, 452–55, 521 N.W.2d 165 (Ct. App. 1994) (school board may not avoid duty to provide public records by delegating the creation and custody of the record to its attorneys).

³⁰⁷ 66 Op. Att'y Gen. 226 (1977).

³⁰⁸ 77 Op. Att'y Gen. 177, 180 (1988).

³⁰⁹ *Hodge*, 180 Wis. 2d at 75–76.

³¹⁰ Cf. *State ex rel. Ozanne v. Fitzgerald*, 2011 WI 43, ¶ 13, 334 Wis. 2d 70, 798 N.W.2d 436 (Wisconsin supreme court did not void a statute adopted by the legislature because a legislative committee did not comply with notice requirements of the open meetings law); *Epping*, 218 Wis. 2d at 524 n.4 (arguably unlawful closed session deliberation does not provide basis for voiding subsequent open session vote); *State ex rel. Ward v. Town of Nashville*, No. 00-0973, 2001 WL 881704, ¶ 30 (Wis. Ct. App. Aug. 7, 2001) (unpublished) (declining to void an agreement made in open session, where the agreement was the product of three years of unlawfully closed meetings).

³¹¹ Wis. Stat. § 19.97(2).

³¹² Wis. Stat. § 19.81(1), (4).

³¹³ Wis. Stat. §§ 19.39, 19.98.

³¹⁴ *BDADC*, 2008 WI 90, ¶¶ 37, 44–45. See also *Krueger*, 2017 WI 70, ¶ 39 (adopting the Attorney General's opinion that, under open meetings law, a committee is created whenever a government body, by rule, "authorizes the committee and assigns the duties and functions of the committee" (quoting 78 Op. Att'y Gen. 67, 69)).

compliance guide and in Wisconsin DOJ's Public Records Law Compliance Guide, court decisions, and prior Attorney General opinions and to confer with their own private or governmental attorneys. In the rare instances where a question cannot be resolved in this manner, a written request for advice may be made to Wisconsin DOJ. In submitting such requests, it should be remembered that Wisconsin DOJ cannot conduct factual investigations, resolve disputed issues of fact, or make definitive determinations on fact-specific issues. Any response will thus be based solely on the information provided.

Appendix A

Open Meetings Law

Wis. Stat. §§ 19.81–19.98

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information by authorities. The attorney general shall provide the summary, at no charge, to interested persons.

History: 1991 a. 39.

19.80 Penalties. (2) EMPLOYEE DISCIPLINE. Any person employed by an authority who violates this subchapter may be discharged or suspended without pay.

(3) PENALTIES. (a) Any person who willfully collects, discloses or maintains personally identifiable information in violation of federal or state law may be required to forfeit not more than \$500 for each violation.

(b) Any person who willfully requests or obtains personally identifiable information from an authority under false pretenses may be required to forfeit not more than \$500 for each violation.

History: 1991 a. 39, 269.

SUBCHAPTER V**OPEN MEETINGS OF GOVERNMENTAL BODIES**

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

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

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

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

History: 1975 c. 426; 1983 a. 192.

NOTE: The following annotations relate to s. 66.77, which was repealed by [Chapter 426, laws of 1975](#).

Subsequent to the presentation of evidence by the taxpayer, a board of review's consideration of testimony by the village assessor at an executive session was contrary to the open meeting law. Although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi-judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the quasi-judicial hearing without the presence of or notice to the objecting taxpayer. *Dolphin v. Board of Review*, 70 Wis. 2d 403, 234 N.W.2d 277 (1975).

The open meeting law is not applicable to the Wisconsin Judicial Commission. *State ex rel. Lynch v. Dancy*, 71 Wis. 2d 287, 238 N.W.2d 81 (1976).

A regular open meeting, held subsequent to a closed meeting on another subject, does not constitute a reconvened open meeting when there was no prior open meeting on that day. 58 Atty. Gen. 41.

Consideration of a resolution is a formal action of an administrative or minor governing body and, when taken in proper closed session, the resolution and result of the vote must be made available for public inspection, pursuant to s. 19.21, absent a specific showing that the public interest would be adversely affected. 60 Atty. Gen. 9.

Joint apprenticeship committees, appointed pursuant to Wis. Adm. Code provisions, are governmental bodies and subject to the requirements of the open meeting law. 63 Atty. Gen. 363.

Voting procedures employed by worker's compensation and unemployment advisory councils that utilized adjournment of public meeting for purposes of having members representing employers and members representing employees or workers to separately meet in closed caucuses and to vote as a block on reconvening was contrary to the open records law. 63 Atty. Gen. 414.

A governmental body can call closed sessions for proper purposes without giving notice to members of the news media who have filed written requests. 63 Atty. Gen. 470.

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Discussing the meaning of "communication" with reference to giving the public and news media members adequate notice. 63 Atty. Gen. 509.

The posting in the governor's office of agenda of future investment board meetings is not sufficient communication to the public or the news media who have filed a written request for notice. 63 Atty. Gen. 549.

A county board may not utilize an unidentified paper ballot in voting to appoint a county highway commissioner but may vote by ayes and nays or show of hands at an open session if some member does not require the vote to be taken in such manner that the vote of each member may be ascertained and recorded. 63 Atty. Gen. 569.

NOTE: The following annotations refer to ss. 19.81 to 19.98.

When the city of Milwaukee and a private non-profit festival organization incorporated the open meetings law into a contract, the contract allowed public enforcement of the contractual provisions concerning open meetings. *State ex rel. Journal/Sentinel, Inc. v. Pleva*, 155 Wis. 2d 704, 456 N.W.2d 359 (1990).

Sub. (2) requires that a meeting be held in a facility that gives reasonable public access, not total access. No person may be systematically excluded or arbitrarily refused admittance. *State ex rel. Badke v. Village Board*, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

Discussing this subchapter. 65 Atty. Gen. preface.

Discussing public notice requirements for meetings of a city district school board under this subchapter and former s. 120.48, 1983 stats. 66 Atty. Gen. 93.

A volunteer fire department organized as a nonprofit corporation under s. 213.05 is not subject to the open meeting law. 66 Atty. Gen. 113.

Anyone has the right to tape-record an open meeting of a governmental body provided the meeting is not thereby physically disrupted. 66 Atty. Gen. 318.

The open meeting law does not apply to a coroner's inquest. 67 Atty. Gen. 250.

The open meeting law does not apply if the common council hears a grievance under a collective bargaining agreement. 67 Atty. Gen. 276.

Discussing the application of the open meeting law to the duties of WERC. 68 Atty. Gen. 171.

A senate committee meeting was probably held in violation of the open meetings law although there was never any intention prior to the gathering to attempt to debate any matter of policy, to reach agreement on differences, to make any decisions on any bill or part thereof, to take any votes, or to resolve substantive differences. Quorum gatherings should be presumed to be in violation of the law, due to a quorum's ability to thereafter call, compose, and control by vote a formal meeting of a governmental body. 71 Atty. Gen. 63.

Nonstock corporations created by statute as bodies politic clearly fall within the term "governmental body" as defined in the open meetings law and are subject to the provisions of the open meetings law. Nonstock corporations that are not created by the legislature or by rule, but are created by private citizens, are not bodies politic and not governmental bodies. 73 Atty. Gen. 53.

Understanding Wisconsin's Open Meeting Law. Harvey. WBB Sept. 1980.

Getting the Best of Both Worlds: Open Government and Economic Development. Westerberg. Wis. Law. Feb. 2009.

An Intro to Understanding Wisconsin's Open Meetings Law. Block. Wis. Law. Dec. 2015.

19.82 Definitions. As used in this subchapter:

(1) "Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation; a local exposition district under subch. II of ch. 229; a long-term care district under s. 46.2895; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. I, IV, or V of ch. 111.

(2) "Meeting" means the convening of members of a governmental body for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. If one-half or more of the members of a governmental body are present, the meeting is rebuttably presumed to be for the purpose of exercising the responsibilities, authority, power or duties delegated to or vested in the body. The term does not include any social or chance gathering or conference which is not intended to avoid this subchapter, any gathering of the members of a town board for the purpose specified in s. 60.50 (6), any gathering of the commissioners of a town sanitary district for the purpose specified in s. 60.77 (5) (k), or any gathering of the members of a drainage board created under s. 88.16, 1991 stats., or under s. 88.17, for a purpose specified in s. 88.065 (5) (a).

(3) "Open session" means a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times. In the case of a state governmental body, it means a meeting which is held in a building and room thereof

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which enables access by persons with functional limitations, as defined in s. 101.13 (1).

History: 1975 c. 426; 1977 c. 364, 447; 1985 a. 26, 29, 332; 1987 a. 305; 1993 a. 215, 263, 456, 491; 1995 a. 27, 185; 1997 a. 79; 1999 a. 9; 2007 a. 20, 96; 2009 a. 28; 2011 a. 10.

A “meeting” under sub. (2) was found although the governmental body was not empowered to exercise the final powers of its parent body. *State v. Swanson*, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

A “meeting” under sub. (2) was found when members met with a purpose to engage in government business and the number of members present was sufficient to determine the parent body’s course of action regarding the proposal discussed. *State ex rel. Newspapers Inc. v. Showers*, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second body, the gathering is a “meeting” unless the gathering is social or by chance. *State ex rel. Badke v. Village Board*, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

The open meetings law is not meant to apply to single-member governmental bodies. Sub. (2) speaks of a meeting of the members, plural, implying there must be at least two members of a governmental body. *Plourde v. Habegger*, 2006 WI App 147, 294 Wis. 2d 746, 720 N.W.2d 130, 05-2106.

A corporation is quasi-governmental if, based on the totality of circumstances, it resembles a governmental corporation in function, effect, or status, requiring a case-by-case analysis. Here, a primary consideration was that the body was funded exclusively by public tax dollars or interest thereon. Additionally, its office was located in the municipal building, it was listed on the city website, the city provided it with clerical support and office supplies, all its assets revert to the city if it ceased to exist, its books were open for city inspection, the mayor and another city official were directors, and it had no clients other than the city. *State v. Beaver Dam Area Development Corp.*, 2008 WI 90, 312 Wis. 2d 84, 752 N.W.2d 295, 06-0662.

A particular group of members of the government compose a governmental body if there is a constitution, statute, ordinance, rule, or order conferring collective power and defining when it exists. To cause a body to exist, the relevant directive must confer upon it the collective responsibilities, authority, power, or duties necessary to a governmental body’s existence under the open meetings law. The creation of a governmental body is not triggered merely by any deliberate meetings involving governmental business between two or more officials. Loosely organized, ad hoc gatherings of government employees, without more, do not constitute governmental bodies. Rather, an entity must exist that has the power to take collective action that the members could not take individually. *State ex rel. Krueger v. Appleton Area School District Board of Education*, 2017 WI 70, 376 Wis. 2d 239, 898 N.W.2d 35, 15-0231.

When a governmental entity adopts a rule authorizing the formation of committees and conferring on them the power to take collective action, such committees are created by rule under sub. (1), and the open meetings law applies to them. Here, a school board provided that the review of educational materials should be done according to the board-approved handbook. The handbook, in turn, authorized the formation of committees with a defined membership and the power to review educational materials and make formal recommendations for board approval. Because the committee in question was formed as one of these committees, pursuant to the authority delegated from the board by rule and the handbook, it was created by rule and therefore was a “governmental body” under sub. (1). *State ex rel. Krueger v. Appleton Area School District Board of Education*, 2017 WI 70, 376 Wis. 2d 239, 898 N.W.2d 35, 15-0231.

Under *Showers*, 135 Wis. 2d 77 (1987), the open meetings law may apply to a walking quorum. A walking quorum is a series of gatherings among separate groups of members of a governmental body, each less than quorum size, who agree, tacitly or explicitly, to act uniformly in sufficient number to reach a quorum. To establish a walking quorum, a plaintiff must prove that members of a governmental body purposefully engaged in discussions of governmental business and that the discussions were held between a sufficient number of members so as to affect the vote. *State ex rel. Zecchino v. Dane County*, 2018 WI App 19, 380 Wis. 2d 453, 909 N.W.2d 203, 17-0002.

A municipal public utility commission managing a city owned public electric utility is a governmental body under sub. (1). 65 Atty. Gen. 243.

A “private conference” under s. 118.22 (3) on nonrenewal of a teacher’s contract is a “meeting” within sub. (2). 66 Atty. Gen. 211.

A private home may qualify as a meeting place under sub. (3). 67 Atty. Gen. 125.

A telephone conference call involving members of a governmental body is a “meeting” that must be reasonably accessible to the public, and public notice must be given. 69 Atty. Gen. 143.

A “quasi-governmental corporation” in sub. (1) includes private corporations that closely resemble governmental corporations in function, effect, or status. 80 Atty. Gen. 129.

Election canvassing boards operating under ss. 7.51, 7.53, and 7.60 are governmental bodies subject to the open meetings law—including the public notice, open session, and reasonable public access requirements—when they convene for the purpose of carrying out their statutory canvassing activities, but not when they are gathered only as individual inspectors fulfilling administrative duties. OAG 5-14.

19.83 Meetings of governmental bodies. (1) Every meeting of a governmental body shall be preceded by public notice as provided in s. 19.84, and shall be held in open session. At any meeting of a governmental body, all discussion shall be held and all action of any kind, formal or informal, shall be initiated, deliberated upon and acted upon only in open session except as provided in s. 19.85.

(2) During a period of public comment under s. 19.84 (2), a governmental body may discuss any matter raised by the public.

History: 1975 c. 426; 1997 a. 123.

When a quorum of a governmental body attends the meeting of another governmental body when any one of the members is not also a member of the second body, the gathering is a “meeting” unless the gathering is social or by chance. *State ex rel. Badke v. Village Board*, 173 Wis. 2d 553, 494 N.W.2d 408 (1993).

19.84 Public notice. (1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person’s designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area. Communication from the chief presiding officer of a governmental body or such person’s designee shall be made to the public using one of the following methods:

1. Posting a notice in at least 3 public places likely to give notice to persons affected.

2. Posting a notice in at least one public place likely to give notice to persons affected and placing a notice electronically on the governmental body’s Internet site.

3. By paid publication in a news medium likely to give notice to persons affected.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof. The public notice of a meeting of a governmental body may provide for a period of public comment, during which the body may receive information from members of the public.

(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

(5) Departments and their subunits in any University of Wisconsin System institution or campus are exempt from the requirements of subs. (1) to (4) but shall provide meeting notice which is reasonably likely to apprise interested persons, and news media who have filed written requests for such notice.

(6) Notwithstanding the requirements of s. 19.83 and the requirements of this section, a governmental body which is a formally constituted subunit of a parent governmental body may conduct a meeting without public notice as required by this section during a lawful meeting of the parent governmental body, during a recess in such meeting or immediately after such meeting for the purpose of discussing or acting upon a matter which was the subject of that meeting of the parent governmental body. The presiding officer of the parent governmental body shall publicly announce the time, place and subject matter of the meeting of the subunit in advance at the meeting of the parent body.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1997 a. 123; 2007 a. 20; 2019 a. 140.

There is no requirement in this section that the notice provided be exactly correct in every detail. *State ex rel. Olson v. City of Baraboo Joint Review Board*, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01-0201.

Sub. (2) does not expressly require that the notice indicate whether a meeting will

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be purely deliberative or if action will be taken. The notice must alert the public of the importance of the meeting. Although a failure to expressly state whether action will be taken could be a violation, the importance of knowing whether a vote would be taken is diminished when no input from the audience is allowed or required. State ex rel. Olson v. City of Baraboo Joint Review Board, 2002 WI App 64, 252 Wis. 2d 628, 643 N.W.2d 796, 01-0201.

Sub. (2) sets forth a reasonableness standard for determining whether notice of a meeting is sufficient that strikes the proper balance between the public's right to information and the government's need to efficiently conduct its business. The standard requires taking into account the circumstances of the case, which includes analyzing such factors as the burden of providing more detailed notice, whether the subject is of particular public interest, and whether it involves non-routine action that the public would be unlikely to anticipate. State ex rel. Buswell v. Tomah Area School District, 2007 WI 71, 301 Wis. 2d 178, 732 N.W.2d 804, 05-2998.

The supreme court declined to review the validity of the procedure used to give notice of a joint legislative committee on conference alleged to violate the sub. (3) 24-hour notice requirement. The court will not determine whether internal operating rules or procedural statutes have been complied with by the legislature in the course of its enactments and will not intermeddle in what it views, in the absence of constitutional directives to the contrary, to be purely legislative concerns. State ex rel. Ozanne v. Fitzgerald, 2011 WI 43, 334 Wis. 2d 70, 798 N.W.2d 436, 11-0613.

Under sub. (1) (b), a written request for notice of meetings of a governmental body should be filed with the chief presiding officer or designee, and a separate written request should be filed with each specific governmental body. 65 Atty. Gen. 166.

Discussing the method of giving notice pursuant to sub. (1). 65 Atty. Gen. 250.

Discussing the specificity of notice required by a governmental body. 66 Atty. Gen. 143, 195.

Discussing the requirements of notice given to newspapers under this section. 66 Atty. Gen. 230.

A town board, but not an annual town meeting, is a "governmental body" within the meaning of the open meetings law. 66 Atty. Gen. 237.

News media who have filed written requests for notices of public meetings cannot be charged fees by governmental bodies for communication of the notices. 77 Atty. Gen. 312.

A newspaper is not obligated to print a notice received under sub. (1) (b), nor is a governmental body obligated to pay for publication. Martin v. Wray, 473 F. Supp. 1131 (1979).

19.85 Exemptions. (1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

(a) Deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body.

(b) Considering dismissal, demotion, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person, or considering the grant or denial of tenure for a university faculty member, and the taking of formal action on any such matter; provided that the faculty member or other public employee or person licensed is given actual notice of any evidentiary hearing which may be held prior to final action being taken and of any meeting at which final action may be taken. The notice shall contain a statement that the person has the right to demand that the evidentiary hearing or meeting be held in open session. This paragraph and par. (f) do not apply to any such evidentiary hearing or meeting where the employee or person licensed requests that an open session be held.

(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.

(d) Except as provided in s. 304.06 (1) (eg) and by rule promulgated under s. 304.06 (1) (em), considering specific applications of probation, extended supervision or parole, or considering strategy for crime detection or prevention.

(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.

(ee) Deliberating by the council on unemployment insurance in a meeting at which all employer members of the council or all employee members of the council are excluded.

(eg) Deliberating by the council on worker's compensation in a meeting at which all employer members of the council or all employee members of the council are excluded.

(em) Deliberating under s. 157.70 if the location of a burial site, as defined in s. 157.70 (1) (b), is a subject of the deliberation and if discussing the location in public would be likely to result in disturbance of the burial site.

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

(h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

(2) No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

(3) Nothing in this subchapter shall be construed to authorize a governmental body to consider at a meeting in closed session the final ratification or approval of a collective bargaining agreement under subch. I, IV, or V of ch. 111 which has been negotiated by such body or on its behalf.

History: 1975 c. 426; 1977 c. 260; 1983 a. 84; 1985 a. 316; 1987 a. 38, 305; 1989 a. 64; 1991 a. 39; 1993 a. 97, 215; 1995 a. 27; 1997 a. 39, 237, 283; 1999 a. 32; 2007 a. 1, 20; 2009 a. 28; 2011 a. 10, 32; 2015 a. 118.

Although a meeting was properly closed, in order to refuse inspection of records of the meeting, the custodian was required by s. 19.35 (1) (a) to state specific and sufficient public policy reasons why the public interest in nondisclosure outweighed the public's right of inspection. Oshkosh Northwestern Co. v. Oshkosh Library Board, 125 Wis. 2d 480, 373 N.W.2d 459 (Ct. App. 1985).

Discussing the balance between protection of reputation under sub. (1) (f) and the public interest in openness. Wisconsin State Journal v. University of Wisconsin-Platteville, 160 Wis. 2d 31, 465 N.W.2d 266 (Ct. App. 1990). See also Law Offices of Pangman & Associates v. Stigler, 161 Wis. 2d 828, 468 N.W.2d 784 (Ct. App. 1991).

A "case" under sub. (1) (a) contemplates an adversarial proceeding. It does not connote the mere application for and granting of a permit. State ex rel. Hodge v. Town of Turtle Lake, 180 Wis. 2d 62, 508 N.W.2d 603 (1993).

A closed session to discuss an employee's dismissal was properly held under sub. (1) (b) and did not require notice to the employee under sub. (1) (b) when no evidentiary hearing or final action took place in the closed session. State ex rel. Epping v. City of Neillsville, 218 Wis. 2d 516, 581 N.W.2d 548 (Ct. App. 1998), 97-0403.

Section 19.35 (1) (a) does not mandate that, when a meeting is closed under this section, all records created for or presented at the meeting are exempt from disclosure. The court must still apply the balancing test articulated in *Linzmeier*, 2002 WI 84. Zellner v. Cedarburg School District, 2007 WI 53, 300 Wis. 2d 290, 731 N.W.2d 240, 06-1143.

The exception under sub. (1) (e) must be strictly construed. A private entity's desire for confidentiality did not permit a closed meeting. A governing body's belief that secret meetings would produce cost savings did not justify closing the door to public scrutiny. Providing contingencies allowing for future public input was insuf-

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ficient. Because legitimate concerns were present for portions of some of the meetings did not mean the entirety of the meetings fell within the narrow exception under sub. (1) (e). State ex rel. Citizens for Responsible Development v. City of Milton, 2007 WI App 114, 300 Wis. 2d 649, 731 N.W.2d 640, 06-0427.

Nothing in sub. (1) (e) suggests that a reason for going into closed session must be shared by each municipality participating in an intergovernmental body. It is not inconsistent with the open meetings law for a body to move into closed session under sub. (1) (e) when the bargaining position to be protected is not shared by every member of the body. Once a vote passes to go into closed session, the reason for requesting the vote becomes the reason of the entire body. State ex rel. Herro v. Village of McFarland, 2007 WI App 172, 303 Wis. 2d 749, 737 N.W.2d 55, 06-1929.

In allowing governmental bodies to conduct closed sessions in limited circumstances, this section does not create a blanket privilege shielding closed session contents from discovery. There is no implicit or explicit confidentiality mandate. A closed meeting is not synonymous with a meeting that, by definition, entails a privilege exempting its contents from discovery. Sands v. Whitnall School District, 2008 WI 89, 312 Wis. 2d 1, 754 N.W.2d 439, 05-1026.

Sub. (1) (e) can be invoked to prevent disclosure of a negotiation strategy or other insider information that is not available to one party in a negotiation. Sub. (1) (e) cannot, however, be invoked merely because a private entity desires confidentiality; because the public will later have the opportunity to provide input; or to prevent competition when the other side remains free to negotiate with potential competitors. In addition, there are public policy reasons why sub. (1) (e) should not generally be used to prevent competition among governmental entities, as this could harm both consumers and those citizens interested in the workings of their government. Friends of Frame Park, U.A. v. City of Waukesha, 2020 WI App 61, 394 Wis. 2d 387, 950 N.W.2d 831, 19-0096.

Reversed on other grounds. 2022 WI 57, 403 Wis. 2d 1, 976 N.W.2d 263, 19-0096.

Boards of review cannot rely on the exemptions in sub. (1) to close any meeting in view of the explicit requirements in s. 70.47 (2m). 65 Atty. Gen. 162.

A university subunit may discuss promotions not relating to tenure, merit increases, and property purchase recommendations in closed session. 66 Atty. Gen. 60.

Neither sub. (1) (c) nor (f) authorizes a school board to make actual appointments of a new member in closed session. 74 Atty. Gen. 70.

A county board chairperson and committee are not authorized by sub. (1) (c) to meet in closed session to discuss appointments to county board committees. In appropriate circumstances, sub. (1) (f) would authorize closed sessions. 76 Atty. Gen. 276.

Sub. (1) (c) does not permit closed sessions to consider employment, compensation, promotion, or performance evaluation policies to be applied to a position of employment in general. 80 Atty. Gen. 176.

A governmental body may convene in closed session to formulate collective bargaining strategy, but sub. (3) requires that deliberations leading to ratification of a tentative agreement with a bargaining unit, as well as the ratification vote, must be held in open session. 81 Atty. Gen. 139.

"Evidentiary hearing," as used in sub. (1) (b), means a formal examination of accusations by receiving testimony or other forms of evidence that may be relevant to the dismissal, demotion, licensing, or discipline of any public employee or person covered by that section. A council that considered a mayor's accusations against an employee in closed session without giving the employee prior notice violated the requirement of actual notice to the employee. Campana v. City of Greenfield, 38 F. Supp. 2d 1043 (1999).

Closed Session, Open Book: Sifting the Sands Case. Bach. Wis. Law. Oct. 2009.

19.851 Closed sessions by ethics or elections commission. (1) Prior to convening under this section or under s. 19.85 (1), the ethics commission and the elections commission shall vote to convene in closed session in the manner provided in s. 19.85 (1). The ethics commission shall identify the specific reason or reasons under sub. (2) and s. 19.85 (1) (a) to (h) for convening in closed session. The elections commission shall identify the specific reason or reasons under s. 19.85 (1) (a) to (h) for convening in closed session. No business may be conducted by the ethics commission or the elections commission at any closed session under this section except that which relates to the purposes of the session as authorized in this section or as authorized in s. 19.85 (1).

(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.

(3) The commission shall convene in closed session for any of the following purposes:

(a) To consider whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring based on a complaint and, if received, a response to that complaint.

(b) To receive reports concerning audit findings and consider

whether there is a reasonable suspicion or probable cause to believe that a violation of the law occurred or is occurring.

History: 2007 a. 1; 2015 a. 118; 2023 a. 120.

19.86 Notice of collective bargaining negotiations. Notwithstanding s. 19.82 (1), where notice has been given by either party to a collective bargaining agreement under subch. I, IV, or V of ch. 111 to reopen such agreement at its expiration date, the employer shall give notice of such contract reopening as provided in s. 19.84 (1) (b). If the employer is not a governmental body, notice shall be given by the employer's chief officer or such person's designee.

History: 1975 c. 426; 1987 a. 305; 1993 a. 215; 1995 a. 27; 2007 a. 20; 2009 a. 28; 2011 a. 10.

19.87 Legislative meetings. This subchapter shall apply to all meetings of the senate and assembly and the committees, subcommittees and other subunits thereof, except that:

(1) Section 19.84 shall not apply to any meeting of the legislature or a subunit thereof called solely for the purpose of scheduling business before the legislative body; or adopting resolutions of which the sole purpose is scheduling business before the senate or the assembly.

(2) No provision of this subchapter which conflicts with a rule of the senate or assembly or joint rule of the legislature shall apply to a meeting conducted in compliance with such rule.

(3) No provision of this subchapter shall apply to any partisan caucus of the senate or any partisan caucus of the assembly, except as provided by legislative rule.

(4) Meetings of the senate or assembly committee on organization under s. 71.78 (4) (c) or 77.61 (5) (b) 3. shall be closed to the public.

History: 1975 c. 426; 1977 c. 418; 1987 a. 312 s. 17.

Former open meetings law, s. 66.74 (4) (g), 1973 stats., that excepted "partisan caucuses of the members" of the state legislature from coverage of the law applied to a closed meeting of the members of one political party on a legislative committee to discuss a bill. The contention that this exception was only intended to apply to the partisan caucuses of the whole houses would have been supportable if the exception were simply for "partisan caucuses of the state legislature" rather than partisan caucuses of members of the state legislature. State ex rel. Lynch v. Conta, 71 Wis. 2d 662, 239 N.W.2d 313 (1976).

In contrast to former s. 66.74 (4) (g), 1973 stats., sub. (3) applies to partisan caucuses of the houses, rather than to caucuses of members of the houses. State ex rel. Newspapers Inc. v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

19.88 Ballots, votes and records. (1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body except the election of the officers of such body in any meeting.

(2) Except as provided in sub. (1) in the case of officers, any member of a governmental body may require that a vote be taken at any meeting in such manner that the vote of each member is ascertained and recorded.

(3) The motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection to the extent prescribed in subch. II of ch. 19.

History: 1975 c. 426; 1981 c. 335 s. 26.

The plaintiff newspaper argued that sub. (3), which requires "the motions and roll call votes of each meeting of a governmental body shall be recorded, preserved and open to public inspection," in turn, required the defendant commission to record and disclose the information the newspaper requested under the open records law. The newspaper could not seek relief under the public records law for the commission's alleged violation of the open meetings law and could not recover reasonable attorney fees, damages, and other actual costs under s. 19.37 (2) for an alleged violation of the open meetings law. Journal Times v. City of Racine Board of Police & Fire Commissioners, 2015 WI 56, 362 Wis. 2d 577, 866 N.W.2d 563, 13-1715.

Under sub. (1), a common council may not vote to fill a vacancy on the common council by secret ballot. 65 Atty. Gen. 131.

19.89 Exclusion of members. No duly elected or appointed member of a governmental body may be excluded from any meeting of such body. Unless the rules of a governmental

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body provide to the contrary, no member of the body may be excluded from any meeting of a subunit of that governmental body.

History: 1975 c. 426.

19.90 Use of equipment in open session. Whenever a governmental body holds a meeting in open session, the body shall make a reasonable effort to accommodate any person desiring to record, film or photograph the meeting. This section does not permit recording, filming or photographing such a meeting in a manner that interferes with the conduct of the meeting or the rights of the participants.

History: 1977 c. 322.

19.96 Penalty. Any member of a governmental body who knowingly attends a meeting of such body held in violation of this subchapter, or who, in his or her official capacity, otherwise violates this subchapter by some act or omission shall forfeit without reimbursement not less than \$25 nor more than \$300 for each such violation. No member of a governmental body is liable under this subchapter on account of his or her attendance at a meeting held in violation of this subchapter if he or she makes or votes in favor of a motion to prevent the violation from occurring, or if, before the violation occurs, his or her votes on all relevant motions were inconsistent with all those circumstances which cause the violation.

History: 1975 c. 426.

The state need not prove specific intent to violate the open meetings law. *State v. Swanson*, 92 Wis. 2d 310, 284 N.W.2d 655 (1979).

19.97 Enforcement. (1) This subchapter shall be enforced in the name and on behalf of the state by the attorney general or, upon the verified complaint of any person, by the district attorney of any county wherein a violation may occur. In actions brought by the attorney general, the court shall award any forfeiture recovered together with reasonable costs to the state; and in actions brought by the district attorney, the court shall award any forfeiture recovered together with reasonable costs to the county.

(2) In addition and supplementary to the remedy provided in s. 19.96, the attorney general or the district attorney may commence an action, separately or in conjunction with an action brought under s. 19.96, to obtain such other legal or equitable relief, including but not limited to mandamus, injunction or declaratory judgment, as may be appropriate under the circumstances.

(3) Any action taken at a meeting of a governmental body held in violation of this subchapter is voidable, upon action brought by the attorney general or the district attorney of the county wherein the violation occurred. However, any judgment declaring such action void shall not be entered unless the court finds, under the facts of the particular case, that the public interest in the enforcement of this subchapter outweighs any public interest which there may be in sustaining the validity of the action taken.

(4) If the district attorney refuses or otherwise fails to commence an action to enforce this subchapter within 20 days after receiving a verified complaint, the person making such complaint may bring an action under subs. (1) to (3) on his or her relation in the name, and on behalf, of the state. In such actions, the court may award actual and necessary costs of prosecution, including reasonable attorney fees to the relator if he or she prevails, but any forfeiture recovered shall be paid to the state.

(5) Sections 893.80 and 893.82 do not apply to actions commenced under this section.

History: 1975 c. 426; 1981 c. 289; 1995 a. 158.

Judicial Council Note, 1981: Reference in sub. (2) to a "writ" of mandamus has been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613-A]

Awards of attorney fees are to be at a rate applicable to private attorneys. A court may review the reasonableness of the hours and hourly rate charged, including the rates for similar services in the area, and may in addition consider the peculiar facts of the case and the responsible party's ability to pay. *State ex rel. Hodge v. Town of Turtle Lake*, 190 Wis. 2d 181, 526 N.W.2d 784 (Ct. App. 1994).

Actions brought under the open meetings and open records laws are exempt from the notice provisions of s. 893.80. *State ex rel. Auchinleck v. Town of LaGrange*, 200 Wis. 2d 585, 547 N.W.2d 587 (1996), 94-2809.

Failure to bring an action under this section on behalf of the state is fatal and deprives the court of competency to proceed. *Fabyan v. Achtenhagen*, 2002 WI App 214, 257 Wis. 2d 310, 652 N.W.2d 649, 01-3298.

Complaints under the open meetings law are not brought in the individual capacity of the plaintiff but on behalf of the state, subject to the two-year statute of limitations under s. 893.93 (2). *State ex rel. Leung v. City of Lake Geneva*, 2003 WI App 129, 265 Wis. 2d 674, 666 N.W.2d 104, 02-2747.

When a town board's action was voided by the court due to lack of statutory authority, an action for enforcement under sub. (4) by an individual as a private attorney general on behalf of the state against individual board members for a violation of the open meetings law that would subject the individual board members to civil forfeitures was not rendered moot. *State ex rel. Lawton v. Town of Barton*, 2005 WI App 16, 278 Wis. 2d 388, 692 N.W.2d 304, 04-0659.

19.98 Interpretation by attorney general. Any person may request advice from the attorney general as to the applicability of this subchapter under any circumstances.

History: 1975 c. 426.

Appendix B

Open Meetings Law Complaint Form–SAMPLE

VERIFIED OPEN MEETINGS LAW COMPLAINT

Now comes the complainant _____ and as and for a verified complaint pursuant to Wis. Stat. §§ 19.96 and 19.97, alleges and complains as follows:

1. That complainant is a resident of the _____ [town, village, city] of _____, Wisconsin, and that complainant's Post Office Address is _____ [street, avenue, etc.], _____ [city], Wisconsin _____ [zip].

2. That _____ [name of member or chief presiding officer] whose Post Office Address is _____ [street, avenue, etc.], _____ [city], Wisconsin _____ [zip] was on the _____ day of _____ 20____, a _____ [member or chief presiding officer] of _____ [designate official title of governmental body] and that such _____ [board, council, commission or committee] is a governmental body within the meaning of Wis. Stat. § 19.82(1).

3. That _____ [name of member or chief presiding officer] on the _____ day of _____, 20____, at _____ County of _____, Wisconsin, knowingly attended a meeting of said governmental body held in violation of Wis. Stat. § 19.96 and _____ [cite other applicable section(s)], or otherwise violated those sections in that [set out every act or omission constituting the offense charged]: _____

4. That _____ [name of member or chief presiding officer] is thereby subject to the penalties prescribed in Wis. Stat. § 19.96.

5. That the following witnesses can testify to said acts or omissions:

Name	Address	Telephone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. That the following documentary evidence of said acts or omissions is available:

7. That this complaint is made to the District Attorney for _____ County under the provisions of Wis. Stat. § 19.97, and that the district attorney may bring an action to recover the forfeiture provided in Wis. Stat § 19.96.

2022 ADMINISTRATOR BUDGETED

ADMINISTRATOR	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	ADMINISTRATOR	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	DECREASE
SALARY	93,300.00	11,050.00		3,000.00		107,350.00	SALARY	-	-				-	(107,350.00)
RETIREMENT	6,064.50	718.25		195.00		6,977.75	RETIREMENT	-	-				-	(6,977.75)
SOCIAL SECURITY	7,137.45	845.33		229.50		8,212.28	SOCIAL SECURITY	-	-				-	(8,212.28)
LONGEVITY							LONGEVITY		-				-	-
LIFE INSURANCE	300.00	30.00		10.00		340.00	LIFE INSURANCE	-	-				-	(340.00)
HEALTH INSURANCE	8,850.00	985.00		350.00		10,185.00	HEALTH INSURANCE	-	-				-	(10,185.00)
						133,065.03							-	(133,065.03)

2022 EXECUTIVE COMMITTEE - PROPOSED

KIRK ARITY	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	KIRK ARITY	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	INCREASE
SALARY	29,500.00		9,750.00		59,030.00	98,280.00	SALARY	29,500.00	11,050.00	9,750.00		59,030.00	109,330.00	11,050.00
RETIREMENT	1,917.50		633.75		3,836.95	6,388.20	RETIREMENT	1,917.50	718.25	633.75		3,836.95	7,106.45	718.25
SOCIAL SECURITY	2,256.75		745.88		4,515.80	7,518.42	SOCIAL SECURITY	2,256.75	845.33	745.88		4,515.80	8,363.75	845.32
LONGEVITY			80.00				LONGEVITY			80.00				
LIFE INSURANCE			-			-	LIFE INSURANCE			-			-	-
HEALTH INSURANCE			2,450.00		21,712.00	24,162.00	HEALTH INSURANCE		-	2,450.00		21,712.00	24,162.00	-
						136,348.62			985.00				148,962.20	12,613.58
SHANE ROLFF	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	SHANE ROLFF	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	INCREASE
SALARY	77,500.00		-		-	77,500.00	SALARY	87,091.68		-		-	87,091.68	9,591.68
RETIREMENT	5,037.50		-		-	5,037.50	RETIREMENT	5,660.96		-		-	5,660.96	623.46
SOCIAL SECURITY	5,928.75		-		-	5,928.75	SOCIAL SECURITY	6,662.51		-		-	6,662.51	733.76
LONGEVITY	128.00		-		-		LONGEVITY	128.00		-		-		-
LIFE INSURANCE	880.00		-		-	880.00	LIFE INSURANCE	880.00		-		-	880.00	-
HEALTH INSURANCE	24,162.72		-		-	24,162.72	HEALTH INSURANCE	24,162.72		-		-	24,162.72	-
						113,508.97							124,457.87	10,948.90
MOLLY POWELL	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	MOLLY POWELL	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	INCREASE
SALARY	69,200.00		-		6,000.00	75,200.00	SALARY	75,409.00		-	2,500.00	6,000.00	83,909.00	8,709.00
RETIREMENT	4,498.00		-		390.00	4,888.00	RETIREMENT	4,901.59		-	162.50	390.00	5,454.09	566.09
SOCIAL SECURITY	5,293.80		-		459.00	5,752.80	SOCIAL SECURITY	5,768.79		-	191.25	459.00	6,419.04	666.24
LONGEVITY	-		-		-		LONGEVITY	-		-		-	-	-
LIFE INSURANCE	-		-		-	-	LIFE INSURANCE	-		-		-	-	-
HEALTH INSURANCE	24,162.72		-		-	24,162.72	HEALTH INSURANCE	24,162.72		-		-	24,162.72	-
						110,003.52							119,944.84	9,941.32
BECKI WEYER	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	BECKI WEYER	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL	INCREASE
SALARY	72,200.00		-		3,000.00	75,200.00	SALARY	80,909.00		-		3,000.00	83,909.00	8,709.00
RETIREMENT	4,693.00		-		195.00	4,888.00	RETIREMENT	5,259.09		-		195.00	5,454.09	566.09
SOCIAL SECURITY	5,523.30		-		229.50	5,752.80	SOCIAL SECURITY	6,189.54		-		229.50	6,419.04	666.24
LONGEVITY	-		-		-		LONGEVITY	-		-		-	-	-
LIFE INSURANCE	-		-		-	-	LIFE INSURANCE	-		-		-	-	-
HEALTH INSURANCE	24,162.72		-		-	24,162.72	HEALTH INSURANCE	24,162.72		-		-	24,162.72	-
						110,003.52							119,944.84	9,941.32

2022 PROPOSED - EXECUTIVE COMMITTEE

	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL
ADMINISTRATOR PROF SERVICES	-	(5,500.00)				(5,500.00)
ADMINISTRATOR TELEPHONE	-	-				-
ADMINISTRATOR OFFICE SUPPLIES	(350.00)	(4,000.00)				(4,350.00)
ADMINISTRATOR PUB & SUBS	(200.00)					(200.00)
ADMINISTRATOR ASSN DUES	(1,400.00)	(200.00)				(1,600.00)
ADMINISTRATOR TRAVEL	(1,400.00)	(2,500.00)				(3,900.00)
ADMINISTRATOR TRAINING	(1,000.00)	(2,500.00)				(3,500.00)
ADMINISTRATOR OPERATING SUPPLIES	(33,000.00)	(11,500.00)				(44,500.00)
	(37,350.00)	(26,200.00)				(63,550.00)
COMMITTEE	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL
ADMINISTRATOR PROF SERVICES	-	(5,500.00)				(5,500.00)
ADMINISTRATOR TELEPHONE	-	-				-
ADMINISTRATOR OFFICE SUPPLIES	-	(4,000.00)				(4,000.00)
ADMINISTRATOR PUB & SUBS	-					-
ADMINISTRATOR ASSN DUES	-	(200.00)				(200.00)
ADMINISTRATOR TRAVEL	-	(2,500.00)				(2,500.00)
ADMINISTRATOR TRAINING	-	(2,500.00)				(2,500.00)
ADMINISTRATOR OPERATING SUPPLIES	(30,000.00)	(11,500.00)				(41,500.00)
	(30,000.00)	(26,200.00)				(56,200.00)

**NET CHANGE IN FUND EXPENSES - PROPOSED
2022 BUDGET**

PERSONNEL	GENERAL FUND	ECON DEV	LAKE	MASS TRANSIT	UTILITIES	TOTAL
SALARY	(68,790.32)	-	-	(500.00)	-	(69,290.32)
WAGES - SUPPORT	-				4,500.00	4,500.00
RETIREMENT	(4,471.37)	-	-	(32.50)	-	(4,503.87)
SOCIAL SECURITY	(5,262.46)	-	-	(229.50)	-	(5,491.96)
LONGEVITY	-	-	-	-	-	-
LIFE INSURANCE	(300.00)	(30.00)	-	(10.00)	-	(340.00)
HEALTH INSURANCE	(8,850.00)	(985.00)	-	(350.00)	-	(10,185.00)
	(87,674.15)	(1,015.00)	-	(1,122.00)	4,500.00	(85,311.15)
OPERATING						
ADMINISTRATOR PROF SERVICES	-	-	-	-	-	-
ADMINISTRATOR TELEPHONE	-	-	-	-	-	-
ADMINISTRATOR OFFICE SUPPLIES	(350.00)	-	-	-	-	(350.00)
ADMINISTRATOR PUB & SUBS	(200.00)	-	-	-	-	(200.00)
ADMINISTRATOR ASSN DUES	(1,400.00)	-	-	-	-	(1,400.00)
ADMINISTRATOR TRAVEL	(1,400.00)	-	-	-	-	(1,400.00)
ADMINISTRATOR TRAINING	(1,000.00)	-	-	-	-	(1,000.00)
ADMINISTRATOR OPERATING SUPPLIES	(3,000.00)	-	-	-	-	(3,000.00)
	(7,350.00)	-	-	-	-	(7,350.00)
TOTAL EXPENSE SAVINGS	(95,024.15)	(1,015.00)	-	(1,122.00)	4,500.00	(92,661.15)

CITY OF TOMAH JOB DESCRIPTION

GRADE: O

POSITION TITLE: City Clerk
SUPERVISOR: City Administrator
PAGE: 1 of 3

DEPARTMENT: City Clerk
CLASSIFICATION: Salaried - Exempt
Non-Represented

Revised: February
Council Approved: 02/15/2022

GENERAL DESCRIPTION OF DUTIES:

Under administrative direction of the City Administrator, carries out the responsibilities and duties set forth by state statutes and city ordinances. This position performs a variety of responsible supervisory and administrative duties in maintaining official records, issuing licenses, conducting and overseeing all city, state, and federal elections (primary and general), and assists in directing the overall operation of the City Clerk's office. The City Clerk is required to attend the meetings of the Common Council, Committee as a Whole, Board of Review, Long Range Planning Committee, and other meetings as assigned. This position is responsible for the maintenance of official records of proceedings, other official city records and the City seal.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

Any one position may not include all the duties listed, nor do the examples listed include all the duties that may be found in this position.

1. Supervises and evaluates department staff.
2. Supervises elections and registration of voters. Recruits, trains and supervises part-time election staff and directs duties. Maintains electronic election equipment. Responsible for preparing election registration notices, ballots, and publications. Responsible for publishing and posting all notices as required by state statutes. Must be certified in state WisVote system.
3. Directs and supervises the coordination and distribution of all City agendas and minutes.
4. Responsible for minutes of the Common Council, Committee as a Whole, Board of Review, Lake Protection and Rehabilitation District, Long Range Planning Committee and other committees as requested.
5. Prepares City legal notices for publication.
6. Prepares and maintains City Ordinances (up-date, Code Book, proper publications, readings and notices).
7. Custodian of the Corporate Seal and Official Records Custodian for the City and responds to records requests.
8. Responsible for filing T.I.F. reports to the Department of Revenue and assists with creation and closing out of same.
9. Records legal documentation with the Register of Deeds when necessary and files required annexation/boundary reports to the State.
10. Acts as liaison between the public and government officials.
11. Administers oath of office to the City elected and appointed officials.
12. Serves as clerk of the Board of Review.
13. Oversees the application process for licenses issued by the City Clerk's office including mailing the renewal notifications, publishing of notices and preparation of the renewal licenses and keeps a record of all such licenses issued.
14. Prepares and maintains City Clerk Budgets and approves expenditures; assists with the preparation and compilation of annual City Budget.

POSITION TITLE: City Clerk
PAGE: 2 of 3

DEPARTMENT: City Clerk

ESSENTIAL DUTIES AND RESPONSIBILITIES (CONTINUED):

15. Prepares all tasks and duties required by State Statutes and City Code.
16. Works with financial advisors in processing loan application paperwork. Resolutions, public hearings, public appropriate notices, etc. Monitors and maintains required records related to bond issues.
17. Provides necessary financial data for the collective bargaining process and compensation packages. Serves as part of negotiation team for all contract negotiations.
18. Administration of employee benefit programs, including health insurance, life insurance, disability insurance, vision insurance, Section 125 Cafeteria plan, deferred compensation, sick leave, holidays, vacations, worker's compensation, and maintains an up-to-date personnel record on all employees who work for the City. Submits and reconciles monthly insurance premium payments.
19. Serves as Agent for Wisconsin Retirement System. Responsibilities include: Insure requirements of the statutes and rules are complied with; provide information to employees regarding their retirement plan; file monthly and annual reports and transmit contributions monthly; and file other required forms.
20. Evaluates the cost and maintains the city's insurance policies, including but not limited to health, workers compensation, liability, automobile, accident and sickness, property, etc. Makes recommendation for change and maintains all related records. Files claims in connection with insurance losses. Maintains an inventory of all property in the City.
21. Responsible for filing the required quarterly and annual reports for federal and state income tax reports relating to payroll.
22. Responsible for filing the required State Sales Tax Report on a monthly basis with the Department of Revenue.
23. Responsible for calculating and processing the Mobile home fees payable to the Tomah Area School District on a monthly basis and annual reconciliation.
24. Responsible for completing Census documentation.
25. Responsible for filing various reports with the Department of Revenue.
26. Administers discipline and grievance process within the Clerk's Department.
27. Assists City Administrator and Mayor as required and performs other duties as assigned.
28. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.

EDUCATION AND EXPERIENCE REQUIRED:

1. High school diploma or equivalent required.
2. Bachelor's degree in Business Public Administration, Records Management, Human Resources, or related field; or equivalent experience is required. Three to five years of municipal government experience is preferred.
3. Certification as Wisconsin Certified and/or Professional Municipal Clerk or attain within a reasonable amount of time upon hire.
4. Supervisory experience or experience directing and coordinating the work of others.
5. Experience working in an office environment.

POSITION TITLE: City Clerk
PAGE: 3 of 3

DEPARTMENT: City Clerk

KNOWLEDGE, SKILLS AND ABILITIES:

1. Knowledge of state statutes and municipal codes, and how they relate to the Clerk's role in City government.
2. Knowledge of election laws and procedures.
3. Excellent oral and written communication skills.
4. Ability to coordinate and maintain involved records and files and prepare reports from such information; excellent organizational skills.
5. Excellent computer skills, including Microsoft Word and Excel, Publisher and Power Point and ability to operate a variety of office machines including printers, typewriter, phone, calculator, fax machine, copier, and a multitude of software programs.
6. Ability to undertake and complete tasks and excellent multi-tasking skills.
7. Excellent customer/public service skills.
8. Ability to establish and maintain effective working relationships with the general public and City employees.
9. Be bondable according to the State Statutes and must maintain bondable status.

PHYSICAL REQUIREMENTS:

1. Frequently sits at keyboard.
2. Frequent twisting.
3. Reaches above and below shoulder height.
4. Occasional bending.
5. Lifts and carries up to sixty (60) pounds.
6. Pushes and pulls office equipment up to sixty (60) pounds within the office area.
7. Forty-five (45) percent of work day spent sitting.
8. Thirty (30) percent of workday spent standing.
9. Twenty-five (25) percent of workday spent walking.
10. All percentages above could vary, depending upon duties performed that day.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Signature of Employee

Date

Signature of Employer

Date

CITY OF TOMAH JOB DESCRIPTION

GRADE: P

POSITION TITLE: City Clerk
SUPERVISOR: Mayor and Council
PAGE: 1 of 3
Revised: February 2022
Council Approved: 02/15/2022

DEPARTMENT: City Clerk
CLASSIFICATION: Salaried - Exempt
Non-Represented

GENERAL DESCRIPTION OF DUTIES:

Under administrative direction of the Mayor and Council, carries out the responsibilities and duties set forth by state statutes and city ordinances. This position performs a variety of responsible supervisory and administrative duties in maintaining official records, issuing licenses, conducting and overseeing all city, state, and federal elections (primary and general), and assists in directing the overall operation of the City Clerk's office. The City Clerk is required to attend the meetings of the Common Council, Committee as a Whole, Board of Review, Long Range Planning Committee, and other meetings as assigned. This position is responsible for the maintenance of official records of proceedings, other official city records and the City seal.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

Any one position may not include all the duties listed, nor do the examples listed include all the duties that may be found in this position.

1. Supervises and evaluates department staff.
2. Supervises elections and registration of voters. Recruits, trains and supervises part-time election staff and directs duties. Maintains electronic election equipment. Responsible for preparing election registration notices, ballots, and publications. Responsible for publishing and posting all notices as required by state statutes. Must be certified in state WisVote system.
3. Directs and supervises the coordination and distribution of all City agendas and minutes.
4. Responsible for minutes of the Common Council, Committee as a Whole, Board of Review, Lake Protection and Rehabilitation District, Long Range Planning Committee and other committees as requested.
5. Prepares City legal notices for publication.
6. Prepares and maintains City Ordinances (up-date, Code Book, proper publications, readings and notices).
7. Custodian of the Corporate Seal and Official Records Custodian for the City and responds to records requests.
8. Responsible for filing T.I.F. reports to the Department of Revenue and assists with creation and closing out of same.
9. Records legal documentation with the Register of Deeds when necessary and files required annexation/boundary reports to the State.
10. Acts as liaison between the public and government officials.
11. Administers oath of office to the City elected and appointed officials.
12. Serves as clerk of the Board of Review.
13. Oversees the application process for licenses issued by the City Clerk's office including mailing the renewal notifications, publishing of notices and preparation of the renewal licenses and keeps a record of all such licenses issued.
14. Prepares and maintains City Clerk Budgets and approves expenditures; assists with the preparation and compilation of annual City Budget.

POSITION TITLE: City Clerk

DEPARTMENT: City Clerk

ESSENTIAL DUTIES AND RESPONSIBILITIES (CONTINUED):

15. Prepares all tasks and duties required by State Statutes and City Code.
16. Works with financial advisors in processing loan application paperwork. Resolutions, public hearings, public appropriate notices, etc. Monitors and maintains required records related to bond issues.
17. Provides necessary financial data for the collective bargaining process and compensation packages. Serves as part of negotiation team for all contract negotiations.
18. Administration of employee benefit programs, including health insurance, life insurance, disability insurance, vision insurance, Section 125 Cafeteria plan, deferred compensation, sick leave, holidays, vacations, worker's compensation, and maintains an up-to-date personnel record on all employees who work for the City. Submits monthly insurance premium payments.
19. Serves as Agent for Wisconsin Retirement System. Responsibilities include: Insure requirements of the statutes and rules are complied with; provide information to employees regarding their retirement plan; file monthly and annual reports and transmit contributions monthly; and file other required forms.
20. Evaluates the cost and maintains the city's insurance policies, including but not limited to health, workers compensation, liability, automobile, accident and sickness, property, etc. Makes recommendation for change and maintains all related records. Files claims in connection with insurance losses. Maintains an inventory of all property in the City.
21. Responsible for filing the required State Sales Tax Report on a quarterly basis with the Department of Revenue.
22. Responsible for calculating and processing the Mobile home fees payable to the Tomah Area School District on a monthly basis and annual reconciliation.
23. Responsible for completing Census documentation.
24. Responsible for filing various reports with the Department of Revenue.
25. Administers discipline and grievance process within the Clerk's Department.
26. Assists the Mayor as required and performs other duties as assigned.
27. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.
28. Performs required duties as a member of the Senior Executive Team

EDUCATION AND EXPERIENCE REQUIRED:

1. High school diploma or equivalent required.
2. Bachelor's degree in Business Public Administration, Records Management, Human Resources, or related field; or equivalent experience is required. Three to five years of municipal government experience is preferred.
3. Certification as Wisconsin Certified and/or Professional Municipal Clerk or attain within a reasonable amount of time upon hire.
4. Supervisory experience or experience directing and coordinating the work of others.
5. Experience working in an office environment.

KNOWLEDGE, SKILLS AND ABILITIES:

1. Knowledge of state statutes and municipal codes, and how they relate to the Clerk's role in City government.
2. Knowledge of election laws and procedures.
3. Excellent oral and written communication skills.
4. Ability to coordinate and maintain involved records and files and prepare reports from such information; excellent organizational skills.
5. Excellent computer skills, including Microsoft Word and Excel, Publisher and Power Point and ability to operate a variety of office machines including printers, typewriter, phone, calculator, fax machine, copier, and a multitude of software programs.
6. Ability to undertake and complete tasks and excellent multi-tasking skills.
7. Excellent customer/public service skills.
8. Ability to establish and maintain effective working relationships with the general public and City employees.
9. Be bondable according to the State Statutes and must maintain bondable status.

PHYSICAL REQUIREMENTS:

1. Frequently sits at keyboard.
2. Frequent twisting.
3. Reaches above and below shoulder height.
4. Occasional bending.
5. Lifts and carries up to sixty (60) pounds.
6. Pushes and pulls office equipment up to sixty (60) pounds within the office area.
7. Forty-five (45) percent of work day spent sitting.
8. Thirty (30) percent of workday spent standing.
9. Twenty-five (25) percent of workday spent walking.
10. All percentages above could vary, depending upon duties performed that day.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Signature of Employee

Date

Signature of Employer

Date

CITY OF TOMAH

GRADE: O

POSITION: City Treasurer **DEPARTMENT:** Treasurer's Dept.
SUPERVISOR: City Administrator **CLASSIFICATION:** Salaried - Exempt
PAGE: 1 of 3 **Non-Represented**

Revised: March 2019
Council Approved: June 11, 2019

GENERAL DESCRIPTION OF DUTIES:

Under general supervision of the City Administrator, the treasurer is responsible for the preparation and maintenance of the City Budget, investment of city funds, bond issues, related state and federal reports, purchasing, city computer programs, related policy and procedures, claims against the City and the bid specification and process. This position also monitors insurance policies, workers compensation and liability claims and assists the department heads in writing and administering the grant applications. The treasurer performs the responsibilities of the office of the City Treasurer as set forth in Wisconsin Sections 62.09(9).

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Responsible for the preparation, planning, and implementation of the annual City Budget. Coordinates these efforts with all city departments.
2. Establishes and maintains a central accounting system for city government and departments in a manner consistent with the accepted municipal accounting principles and practices.
3. Collects all real estate, personal property and mobile home taxes and reconcile, file and pay said taxes to appropriate taxing authorities.
4. Administer room tax reporting and collecting.
5. Administer the collections through the TRIP program and through Credit Management Control.
6. Assist the public in requests regarding property valuations and tax related questions. Assists with the day to day operations of the assessor's office in their absence.
7. Billing and maintenance of special assessment records including tax roll transfers.
8. Collects funds for ambulance payments, police department, library, court, building inspections, water and sewer, licensing, and parks and recreation programs and events.
9. Reconciliation of accounts receivables.
10. Prepares monthly and year to date financial statements for distribution to all city departments and public officials.
11. Supervises the city payroll. Responsible for all state and federal requirements and compliance issues in reporting earnings from information for the City.
12. Manages and invests the city's funds (on regulation of the State Statutes).

POSITION: City Treasurer **DEPARTMENT:** Treasurer's Dept.
PAGE: 2 of 3

ESSENTIAL DUTIES AND RESPONSIBILITIES (CONTINUED):

13. Prepares, monitors, and maintains all financial reports including, but not limited to, the City's budget, payroll and investments.
14. Serves as backup for payroll processing.
15. Evaluates and makes recommendations regarding the City water and sewer rates.
16. Assists other departments in submission of grant applications, grant reporting and grant closures.
17. Maintains the city's computer systems. Acts as a liaison to contracted service firm. Assists department heads in evaluating programs and hardware. Makes recommendation for changes.
18. Attends the Committee as a Whole meeting and the Common Council meetings monthly. Attends other meetings as required.
19. Reporting and reconciliation into the City's General Ledger for the CDBG Programs
20. Maintains policies for collection and reimbursement of city funds.
21. Deposits all funds of the City in public depositories designated by the City.
22. Administers the Tomah Shared Ride Program for all state and federal grant reporting guidelines and compliance.
23. Maintains all related financial records, documents, and compliance issues for the Tomah Ice Arena.
24. Administers disciplinary grievance processes within the treasurer's department.
25. Performs other duties as needed or assigned.
26. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.

EDUCATION AND EXPERIENCE REQUIRED:

1. Bachelor's Degree in Public Accounting or Public Administration with three years of municipal accounting experience. Also, five or more years of municipal accounting experience required.
2. Experience in customer service.
3. Experience handling cash and conducting business transactions required.
4. Experience in network administration preferred. Experience with Microsoft, Excel, E-mail, internet and computerized accounting software required.

KNOWLEDGE, SKILLS AND ABILITIES:

1. Ability to analyze financial data, balance accounts, compile reports, and make recommendations required.

POSITION: City Treasurer **DEPARTMENT:** Treasurer's Dept.
PAGE: 3 of 3

KNOWLEDGE, SKILLS AND ABILITIES (CONTINUED):

2. Knowledge of GAP and GASB systems. Along with excellent math and balancing skills required.
3. Knowledge of applicable state and federal laws concerning municipal borrowing and investments.
4. The ability to maintain a professional demeanor, calmly approach and solve problems under stressful circumstances, maintain and promote harmony in the workplace, concentrate for extended periods of time, and be flexible.
5. The ability to establish and maintain effective work relationships with the general public as well as with city employees.
6. Ability to operate a variety of office machines including computers, printers, typewriter, phone, calculator, fax machine, copier, credit card machines and remote deposit scanner.
7. Ability to undertake and complete tasks and excellent multi-tasking skills.
8. Valid Wisconsin driver's license.
9. Be bondable according to the State Statutes and must maintain bondable status.

PHYSICAL REQUIREMENTS:

1. Frequent twisting and bending.
2. Reaching above and below shoulder height.
3. Ability to lift fifty (50) plus pounds occasionally.
4. Ability to push and pull office equipment.
5. Ability to sit at a keyboard frequently.
6. Sitting tasks occupy approximately 70 percent of the day.
7. Fifteen (15) percent of workday spent walking.
8. Fifteen (15) percent of workday spent standing.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Signature of Employee

Date

Signature of Employer

Date

CITY OF TOMAH

GRADE: P

POSITION: City Treasurer **DEPARTMENT:** Treasurer's Dept.
SUPERVISOR: Mayor and Council **CLASSIFICATION:** Salaried - Exempt
PAGE: 1 of 3 **Non-Represented**

Revised: March 2022
Council Approved: June 11, 2022

GENERAL DESCRIPTION OF DUTIES:

Under general supervision of the Mayor and Council, the Treasurer is responsible for the preparation and maintenance of the City Budget, investment of city funds, bond issues, related state and federal reports, purchasing, city computer programs, related policy and procedures, claims against the City and the bid specification and process. This position also monitors insurance policies, workers compensation and liability claims and assists the department heads in writing and administering the grant applications. The treasurer performs the responsibilities of the office of the City Treasurer as set forth in Wisconsin Sections 62.09(9).

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Responsible for the preparation, planning, and implementation of the annual City Budget. Coordinates these efforts with all city departments.
2. Establishes and maintains a central accounting system for city government and departments in a manner consistent with the accepted municipal accounting principles and practices.
3. Collects all real estate, personal property and mobile home taxes and reconcile, file and pay said taxes to appropriate taxing authorities.
4. Administer room tax reporting and collecting.
5. Administer the collections through the TRIP program and through Credit Management Control.
6. Assist the public in requests regarding property valuations and tax related questions. Assists with the day to day operations of the assessor's office in their absence.
7. Billing and maintenance of special assessment records including tax roll transfers.
8. Collects funds for ambulance payments, police department, library, court, building inspections, water and sewer, licensing, and parks and recreation programs and events.
9. Reconciliation of accounts receivables.
10. Prepares monthly and year to date financial statements for distribution to all city departments and public officials.
11. Supervises the city payroll. Responsible for all state and federal requirements and compliance issues in reporting earnings from information for the City.
12. Manages and invests the city's funds (on regulation of the State Statutes).

ESSENTIAL DUTIES AND RESPONSIBILITIES (CONTINUED):

13. Prepares, monitors, and maintains all financial reports including, but not limited to, the City's budget, payroll and investments.
14. Serves as backup for payroll processing.
15. Evaluates and makes recommendations regarding the City water and sewer rates.
16. Assists other departments in submission of grant applications, grant reporting and grant closures.
17. Maintains the city's computer systems. Acts as a liaison to contracted service firm. Assists department heads in evaluating programs and hardware. Makes recommendation for changes.
18. Attends the Committee as a Whole meeting and the Common Council meetings monthly. Attends other meetings as required.
19. Reporting and reconciliation into the City's General Ledger for the CDBG Programs
20. Maintains policies for collection and reimbursement of city funds.
21. Deposits all funds of the City in public depositories designated by the City.
22. Administers the Tomah Shared Ride Program for all state and federal grant reporting guidelines and compliance.
23. Maintains all related financial records, documents, and compliance issues for the Tomah Ice Arena.
24. Administers disciplinary grievance processes within the treasurer's department.
25. Performs other duties as needed or assigned.
26. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.
27. Performs required duties as a member of the Senior Executive Team.

EDUCATION AND EXPERIENCE REQUIRED:

1. Bachelor's Degree in Public Accounting or Public Administration with three years of municipal accounting experience. Also, five or more years of municipal accounting experience required.
2. Experience in customer service.
3. Experience handling cash and conducting business transactions required.
4. Experience in network administration preferred. Experience with Microsoft, Excel, E-mail, internet and computerized accounting software required.

KNOWLEDGE, SKILLS AND ABILITIES:

1. Ability to analyze financial data, balance accounts, compile reports, and make recommendations required.

POSITION: City Treasurer **DEPARTMENT:** Treasurer's Dept.
PAGE: 3 of 3

KNOWLEDGE, SKILLS AND ABILITIES (CONTINUED):

2. Knowledge of GAP and GASB systems. Along with excellent math and balancing skills required.
3. Knowledge of applicable state and federal laws concerning municipal borrowing and investments.
4. The ability to maintain a professional demeanor, calmly approach and solve problems under stressful circumstances, maintain and promote harmony in the workplace, concentrate for extended periods of time, and be flexible.
5. The ability to establish and maintain effective work relationships with the general public as well as with city employees.
6. Ability to operate a variety of office machines including computers, printers, typewriter, phone, calculator, fax machine, copier, credit card machines and remote deposit scanner.
7. Ability to undertake and complete tasks and excellent multi-tasking skills.
8. Valid Wisconsin driver's license.
9. Be bondable according to the State Statutes and must maintain bondable status.

PHYSICAL REQUIREMENTS:

1. Frequent twisting and bending.
2. Reaching above and below shoulder height.
3. Ability to lift fifty (50) plus pounds occasionally.
4. Ability to push and pull office equipment.
5. Ability to sit at a keyboard frequently.
6. Sitting tasks occupy approximately 70 percent of the day.
7. Fifteen (15) percent of workday spent walking.
8. Fifteen (15) percent of workday spent standing.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Signature of Employee

Date

Signature of Employer

Date

CITY OF TOMAH JOB DESCRIPTION

GRADE: N
POSITION: Zoning Administrator/Building Inspector Supervisor
DEPARTMENT: Administration **SUPERVISOR:** City Administrator
CLASSIFICATION: Salaried- Non Represented **PAGE:** 1 of 3

Prepared: April 2019
Council Approved: June 11, 2019

GENERAL DESCRIPTION OF DUTIES:

Under direction of the City Administrator, this position is responsible for coordinating planning efforts and enforcement of municipal codes relative to the land use, zoning, and inspections. This position also oversees and evaluates community development to ensure that it occurs in a manner consistent with the City's Plan, and provides recommendations and assistance in long range planning of the City. Work involves the performance of both field and office work in carrying out municipal building inspection programs and effecting compliance with legally established specifications and requirements.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

Any one position may not include all the duties listed, nor do the examples listed include all the duties that may be found in this position.

1. Assists in reviewing site plans, certified survey maps, planned unit developments, re-zonings, conditional use permits, annexations, and recommends conditions as required.
2. Interprets and enforces all conditions of a development approval, zoning and subdivision codes.
3. Investigates complaints from the general public and coordinates meetings to resolve the issues.
4. Collects and distributes plats, CSM, meets and bounds survey maps, and other related development plans to proper department heads, committees and Council.
5. Responsible for preparing agendas, agenda item recaps with supporting documentation, meeting minutes, Staff/Department reports for City Planning Commission.
6. Distributes information about development plans and all of the necessary information to the proper department heads.
7. Performs daily project inspections.
8. Maintains records of all permits issued, inspections made, work approved, and other official actions. Records the lowest floor elevation of all structures erected, moved, altered, or improved in the flood land districts.
9. Establish that all necessary permits that are required for flood land uses by State and Federal law have been served.
10. Inspects all structures, lands and waters as often as necessary to assure compliance with the zoning code.

POSITION: Zoning Administrator/Building Inspector Supervisor

DEPARTMENT: Administration

Page 2 of 3

ESSENTIAL DUTIES AND RESPONSIBILITIES (CONTINUED):

11. Assist the Fire Chief in the review and approval of plans for construction, installation and operation of equipment and structures to ensure that they meet the fire safety requirements for state and local ordinances.
12. Investigates all complaints made related to the location of structures and the use of structures, lands and waters, give a notice of all violations of the zoning code to the owner, resident, agents or occupants of the premise .
13. Prohibits the use or erection of any structure, land or water, until the site has been inspected and approved.
14. Requests assistance and cooperation of the Police Department and City Attorney if necessary.
15. Develops departmental policies and objectives.
16. Interprets applicable codes for compliance.
17. Participates in the annual budget process.
18. Inspects building construction and alterations for conformity with building codes and approved plans for specification requirements; checks soil conditions for footing, size of excavations, setbacks, foundation walls, vents, structural columns, and beams; checks structural steel sections, wood trusses, and roof braces, partitions, and fire places.
19. Develops and maintains an effective system of records and reports of inspections, and other activities as required by the State of Wisconsin and the Department.
20. Supervises and reviews tasks of the Code Enforcement Officer.
21. Performs other work as required.
22. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.

EDUCATION AND EXPERIENCE REQUIRED:

1. Graduation from an accredited high school.
2. Associate or Bachelors Degree in related fields would be preferred, or a minimum of two to four years experience in Municipal Inspections, Zoning and Planning.
3. Proficient in Microsoft programs such as Word, Excel, and the like.
4. Excellent oral and written communication skills.
5. Knowledge of building construction, including plumbing and electrical requirements.
6. The ability to prepare and maintain necessary records and reports related to City development.
7. Considerable knowledge of State, National, and Local codes and regulations related to building construction and to electrical and allied installations.
8. The ability to work from plans, blueprints, and diagrams.

POSITION: **Zoning Administrator/Building Inspector Supervisor**
DEPARTMENT: **City Administrator** **Page 3 of 3**

EDUCATION AND EXPERIENCE REQUIRED (CONTINUED):

9. The ability to work with city officials and the general public in a professional manner.
10. Certification with the State of Wisconsin in residential Construction, Electrical, Plumbing, HVAC, and Commercial Building.
11. Commercial electrical and plumbing building certifications are desirable but not mandatory.
12. Possession of a valid Wisconsin motor vehicle operator's license.

PHYSICAL REQUIREMENTS:

1. Frequently works outdoors with exposure to weather and elements.
2. Lifts and carries objects of different shapes and weights frequently.
3. Frequently bends and twists.
4. 30% of workday is spent sitting;
5. 30% of workday is spent standing;
6. 30% of the workday is spent walking;
7. 10% of the workday is spent driving.
8. All percentages above may vary depending upon the duties performed that day.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Signature of Employee

Date

Signature of Employer

Date

CITY OF TOMAH JOB DESCRIPTION

POSITION: Economic Development and Zoning Director

GRADE: P

DEPARTMENT: Administration

SUPERVISOR: Mayor and Council

CLASSIFICATION: Salaried- Non-Represented

Prepared: June 19, 2024

Council Approved: July 16, 2024

GENERAL DESCRIPTION OF DUTIES:

Under the direction of the Mayor and Council, this position is responsible for coordinating planning efforts and enforcement of municipal codes relative to land use and zoning. This position also oversees and evaluates community development to ensure that it occurs in a manner consistent with the City's Plan and provides recommendations and assistance in long-range planning of the City.

The Economic Development and Zoning Director is also responsible for supervision and evaluation of the Code Enforcement Officer and is a member of the Senior Executive Team.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

1. Conduits technical reviews, site inspections and makes staff reports to the Planning Commission and Board of Appeals on specific project proposals such, but not limited to special use permits applications, conditional use permit applications, zoning amendments, variances and appeals.
2. Interprets and enforces all conditions of a development approval, zoning, and subdivision codes.
3. Establishes, develops, and maintains effective working relationships with departmental staff, the City Attorney, municipal employees, local business owners, and the general public.
4. Conducts special research and/or analyzes economic development program activities.
5. Coordinates and manages community growth projects with project developers.
6. Responsible for preparing agendas, agenda item recaps with supporting documentation, meeting minutes, and Staff/Department reports for City Planning Commission, Long Range Planning Commission, and Historical Preservation Commission.
7. Inspects all structures, lands, and waters as often as necessary to assure compliance with the zoning ordinances.
8. Oversee investigations of complaints on alleged nuisances or violations of minimum housing, zoning, nuisances, overgrown lots, abandoned cars, and other code violations; interviews residents and neighbors, takes photos of property or nuisance conditions, makes sample drawings of property and other information to give full assessment of complaint.
9. Interprets applicable ordinances for compliance.
10. Participates in the annual budget process.
11. Develops and maintains an effective system of records, reports, and other activities as required by the State of Wisconsin and the Department.
12. Supervises and reviews tasks of the Code Enforcement Officer.
13. Present monthly reports to the Mayor and Council at City Council meetings.
14. Attends the Planning Commission, Historical Preservation Commission, and Long-Range Planning meetings monthly.
15. Performs other work as required.
16. The City of Tomah has adopted rule 106 regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the

department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.

17. Provides research and input into the development of ordinances, policies and procedures for the City and the department; advises the Senior Executive Team and Council on related issues.
18. Performs required duties as a member of the Senior Executive Team.

EDUCATION AND EXPERIENCE REQUIRED:

1. Thorough understanding of economic development principles and practices.
2. Thorough understanding of program research, development, and implementation techniques.
3. Bachelor's degree or commensurate experience in urban planning, public administration, or related field
4. Management experience required, with upper-level management experience preferred.
5. Strong leadership skills, consensus and team building skills, excellent oral and written communication skills, and good interpersonal and managerial skills.
6. The ability to prepare and maintain necessary records and reports related to City development.
7. Working understanding of blueprints, ordinances, statistics, technical sketches, and graphics.
8. Thorough understanding of agencies and programs related to federal economic and urban development
9. The ability to work with city officials and the general public in a professional manner.
10. Possession of a valid Wisconsin motor vehicle operator's license.

PHYSICAL REQUIREMENTS:

1. Occasionally work outdoors with exposure to weather and elements.
2. Lift and carry objects of different shapes and weights occasionally
3. Occasionally bend and twist.
4. 30% of workday is spent sitting;
5. 30% of workday is spent standing;
6. 30% of the workday is spent walking;
7. 10% of the workday is spent driving.
8. All percentages above may vary depending upon the duties performed that day.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties.

Employees must provide the public with trust in the department by always being honest, fair, diligent, and courteous.

Employee Signature

Date

Employer Signature

Date

CITY OF TOMAH JOB DESCRIPTION

POSITION TITLE: Director of Public Works & Utilities
SUPERVISOR: City Administrator
PAGE: 1 of 3

GRADE: R
DEPARTMENT: Public Works & Utilities
CLASSIFICATION: Salaried-Exempt
Non Represented

PREPARED: March 2019
COUNCIL APPROVED: June 11, 2019

GENERAL DESCRIPTION OF DUTIES:

Under the direction of the City Administrator, an employee of this position oversees a multi-function department that includes engineering activities as well as the street and utility departments while performing some environmental job duties as needed. Work is performed according to the established guidelines and verbal and/or written instructions. Work is performed in an office setting or in the field as required.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

Any one position may not include all the duties listed, nor do the examples listed include all the duties that may be found in this position.

1. Assume primary responsibility for all finance and financial planning of Public Works and Utilities including annual audit procedures for water, sewer and street projects and the annual Public Service Commission report for the water utility.
2. Assume primary responsibility for the operation and maintenance of the City of Tomah water utility, including the wells, water treatment facilities, water storage facilities and water distribution facilities.
3. Assume primary responsibility for the operation and maintenance of the City of Tomah wastewater collection and treatment system.
4. Assume primary responsibility of construction and maintenance of street and related public facilities and oversee sanitation operations.
5. Direct all extensions and additions to the water and sewer system.
6. Prepare annual budgets for the water and sewer departments and public works operations; submit those budgets to the Public Works and Utilities Commission for approval; and monitor the compliance of those departments with the approved budgets. Supervise water meter readings, the issuance of bills to customers and the collections of those bills. Enforce Public Service Commission rules with regards to billing, collections and disconnections for non-payment of water and sewer bills.
7. Oversee the payment of all expenses for the water and sewer departments and the ordering of all necessary supplies and equipment for those departments. Supervise all personnel in the Water and Sewer Departments, Public Works Operations, and the Public Works and Utilities office.
8. Oversee the preparation of all necessary records and reports and the submittal of all reports required by State and Federal agencies in connection with the water and sewer departments and Public Works operations.
9. Receive and resolve all complaints from the public with regard to the municipal water supply and distribution system, and with regard to wastewater collection, streets, and other public facilities.
10. Review and approve or disapprove all sanitary sewer and water main connection permits.
11. Negotiate contracts with consulting engineering firms for design and services when necessary and monitor the performance of such consultants.
12. Establish and maintain good communications with area businesses and industries, the general public, other City departments, the Public Works and Utilities Commission, and the City Council.
13. Inform property developers and other interested parties of the City's policies regarding charges and responsibilities for extension of sanitary sewers and water mains to previously unserved properties.
14. In charge of the City Hall building, North Side Fire Station building and all buildings in connection with the Public Works and Utilities Departments.
15. Reviews and approves or disapproves change orders that require immediate attention for projects for which the Director is responsible.

16. Required to attend all meetings of Public Works and Utilities Commission, all City Council meetings, all Planning Commission meetings and any other meetings such as required.
17. Due to the nature of this position, additional work time may be necessary to prepare for meetings, to deal with the public, and to schedule and supervise emergency facility operation and maintenance.
18. Monitor Dam operations, review Dam inspection reports and coordinate activities to comply with DNR requirements
19. Oversees Lake District Budget, Lake Committee meetings, and facilitates Lake Committee recommendations to the City Council.
20. Oversee implementation for monitoring of Superfund Landfill Site, coordinates activities with DNR, EPA, International Paper and legal entities for the implementation of Institutional controls.
21. Provides OSHA and Safety training to departmental employees.
22. Provides Material Safety Data Training and information and Public Works staff.
23. Supervises the Airport operation. Develop Statement of Project Intentions, contract administration and procurement, budget preparation and administration of Bloyer Field Airport operations.
24. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcements of said safety rules and regulations.

EDUCATION AND EXPERIENCE REQUIRED:

1. Bachelor's Degree in Engineering or
2. At least six years of experience in the municipal water and wastewater utility field; five years of that water and wastewater experience should be in a supervisory capacity, with exposure to budgetary and record keeping processes.
3. Related Public Works experience is also required.
4. Must be a Wisconsin DNR licensed water and sewer operator.

KNOWLEDGE, SKILLS AND ABILITIES:

1. Knowledge of well construction and operation; operation and maintenance of pressure sand filters for iron removal and radium removal for potable water supplies; municipal water storage and distribution system operation and maintenance; operation and maintenance of activated sludge wastewater treatment systems; and municipal wastewater collection system operation and maintenance.
2. Knowledge of street construction and maintenance and related Public Works operations including solid waste collection, and lake and dam operation.
3. Knowledge of the Wisconsin Administrative Code requirements of the Public Service Commission and the Department of Natural Resources as they pertain to the operation and maintenance of municipal water supply, storage and distribution systems and municipal wastewater collection and a Grade 4 advanced treatment system.
4. Knowledge of basic accounting systems.
5. Valid Wisconsin Drivers License.
6. Knowledge of OSHA Standards.

PHYSICAL REQUIREMENTS:

1. Frequent twisting
2. Carries various weights
3. 50% of work day will be spent sitting
4. 30% of work day will be spent walking
5. 20% of work day will be spent standing
6. Percentages of time sitting, standing and walking may vary depending on tasks performed and the time of year.

POSITION: Director of PW & Utilities
PAGE: 3 of 3

DEPARTMENT: Public Works & Utilities

PHYSICAL REQUIREMENTS (CONTINUED):

7. Reaching above and below shoulder height frequently.
8. Occasional bending and stooping.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Employee Signature

Date

Employer Signature

Date

CITY OF TOMAH JOB DESCRIPTION

POSITION TITLE:	Director of Public Works & Utilities	GRADE:	S
SUPERVISOR:	Mayor and Council	DEPARTMENT:	Public Works & Utilities
PAGE:	1 of 3	CLASSIFICATION:	Salaried-Exempt Non Represented

PREPARED: February 2, 2022
COUNCIL APPROVED: February 15, 2022

GENERAL DESCRIPTION OF DUTIES:

Under the direction of the Mayor and Council, an employee of this position oversees a multi-function department that includes engineering activities as well as the street and utility departments while performing some environmental job duties as needed. Work is performed according to the established guidelines and verbal and/or written instructions. Work is performed in an office setting or in the field as required.

ESSENTIAL DUTIES AND RESPONSIBILITIES:

Any one position may not include all the duties listed, nor do the examples listed include all the duties that may be found in this position.

1. Assume primary responsibility for all finance and financial planning of Public Works and Utilities including annual audit procedures for water, sewer and street projects and the annual Public Service Commission report for the water utility.
2. Assume primary responsibility for the operation and maintenance of the City of Tomah water utility, including the wells, water treatment facilities, water storage facilities and water distribution facilities.
3. Assume primary responsibility for the operation and maintenance of the City of Tomah wastewater collection and treatment system.
4. Assume primary responsibility of construction and maintenance of street and related public facilities and oversee sanitation operations.
5. Direct all extensions and additions to the water and sewer system.
6. Prepare annual budgets for the water and sewer departments and public works operations; submit those budgets to the Public Works and Utilities Commission for approval; and monitor the compliance of those departments with the approved budgets. Supervise water meter readings, the issuance of bills to customers and the collections of those bills. Enforce Public Service Commission rules with regards to billing, collections and disconnections for non-payment of water and sewer bills.
7. Oversee the payment of all expenses for the water and sewer departments and the ordering of all necessary supplies and equipment for those departments. Supervise all personnel in the Water and Sewer Departments, Public Works Operations, and the Public Works and Utilities office.
8. Oversee the preparation of all necessary records and reports and the submittal of all reports required by State and Federal agencies in connection with the water and sewer departments and Public Works operations.
9. Receive and resolve all complaints from the public with regard to the municipal water supply and distribution system, and with regard to wastewater collection, streets, and other public facilities.
10. Review and approve or disapprove all sanitary sewer and water main connection permits.
11. Negotiate contracts with consulting engineering firms for design and services when necessary and monitor the performance of such consultants.
12. Establish and maintain good communications with area businesses and industries, the general public, other City departments, the Public Works and Utilities Commission, and the City Council.
13. Inform property developers and other interested parties of the City's policies regarding charges and responsibilities for extension of sanitary sewers and water mains to previously unserved properties.
14. In charge of the City Hall building, North Side Fire Station building and all buildings in connection with the Public Works and Utilities Departments.
15. Reviews and approves or disapproves change orders that require immediate attention for projects for which the Director is responsible.

16. Required to attend all meetings of Public Works and Utilities Commission, all City Council meetings, all Planning Commission meetings and any other meetings such as required.
17. Due to the nature of this position, additional work time may be necessary to prepare for meetings, to deal with the public, and to schedule and supervise emergency facility operation and maintenance.
18. Monitor Dam operations, review Dam inspection reports and coordinate activities to comply with DNR requirements
19. Oversees Lake District Budget, Lake Committee meetings, and facilitates Lake Committee recommendations to the City Council.
20. Oversee implementation for monitoring of Superfund Landfill Site, coordinates activities with DNR, EPA, International Paper and legal entities for the implementation of Institutional controls.
21. Provides OSHA and Safety training to departmental employees.
22. Provides Material Safety Data Training and information and Public Works staff.
23. Supervises the Airport operation. Develop Statement of Project Intentions, contract administration and procurement, budget preparation and administration of Bloyer Field Airport operations.
24. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcements of said safety rules and regulations.
25. Performs required duties as a member of the Senior Executive Team

EDUCATION AND EXPERIENCE REQUIRED:

1. Bachelor's Degree in Engineering or
2. At least six years of experience in the municipal water and wastewater utility field; five years of that water and wastewater experience should be in a supervisory capacity, with exposure to budgetary and record keeping processes.
3. Related Public Works experience is also required.
4. Must be a Wisconsin DNR licensed water and sewer operator.

KNOWLEDGE, SKILLS AND ABILITIES:

1. Knowledge of well construction and operation; operation and maintenance of pressure sand filters for iron removal and radium removal for potable water supplies; municipal water storage and distribution system operation and maintenance; operation and maintenance of activated sludge wastewater treatment systems; and municipal wastewater collection system operation and maintenance.
2. Knowledge of street construction and maintenance and related Public Works operations including solid waste collection, and lake and dam operation.
3. Knowledge of the Wisconsin Administrative Code requirements of the Public Service Commission and the Department of Natural Resources as they pertain to the operation and maintenance of municipal water supply, storage and distribution systems and municipal wastewater collection and a Grade 4 advanced treatment system.
4. Knowledge of basic accounting systems.
5. Valid Wisconsin Drivers License.
6. Knowledge of OSHA Standards.

PHYSICAL REQUIREMENTS:

1. Frequent twisting
2. Carries various weights
3. 50% of work day will be spent sitting
4. 30% of work day will be spent walking
5. 20% of work day will be spent standing
6. Percentages of time sitting, standing and walking may vary depending on tasks performed and the time of year.

POSITION: Director of PW & Utilities
PAGE: 3 of 3

DEPARTMENT: Public Works & Utilities

PHYSICAL REQUIREMENTS (CONTINUED):

7. Reaching above and below shoulder height frequently.
8. Occasional bending and stooping.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Employee Signature

Date

Employer Signature

Date

CITY OF TOMAH

POSITION TITLE: City Administrator
REPORTS TO: Mayor And City Council
PAGE: 1 of 3

GRADE: T
DEPT. Administration
CLASSIFICATION: Salaried-Exempt
Non-Represented

Revised: March 2019
Council Approved: June 11, 2019

GENERAL DESCRIPTION OF DUTIES:

It is the responsibility of the City Administrator to provide overall direction for the City organization in accordance with the policies established by the Common Council. Other responsibilities are to perform as Personnel Officer; ensure that City operations are conducted in an economic, efficient and effective manner; and that elected officials and citizens concerns are addressed. This position also develops recommendations to the Mayor and City Council for changes in programs, operations and policies to increase effectiveness and efficiency of City Government. In addition, the City Administrator's office shall prepare, review and monitor the annual operating budget for the City. The City Administrator shall coordinate economic development within the City and direct efforts to help increase the tax base and employment opportunities.

DUTIES, RESPONSIBILITIES AND WORK PERFORMED:

1. Recommend to the Mayor and Council to appoint, suspend, remove, or discipline all department heads in a manner which is not inconsistent with state law and the ordinances of the City of Tomah.
2. Carry out directives of the Council involving administrative implantation and coordination of the various City departments.
3. Direct, coordinate and expedite the activities of all City departments except for such authority vested by Wisconsin Statutes in certain boards and commissions.
4. Responsible for the administration of all day to day operations and services provided by the City, including the supervision of all departments in the monitoring and enforcement of all City ordinances, resolutions, state statutes and Council directives.
5. Responsible for establishing and implementing administrative procedures to increase the effectiveness and efficiency of City Government operations which are fully consistent with approved policies established by the Council.
6. Represent the City in matters involving legislative and intergovernmental affairs as required.
7. Submit, as deemed necessary, recommendations or suggestions for improving the health, safety or welfare of the City, its employees and its citizens.
8. Promote economic well-being and growth of the City through public and private sector cooperation.
9. Keep the Mayor and City Council informed about activities of the City departments through oral and written reports.
10. Perform as City Personnel Officer which shall include the development, implementation, interpretation and enforcement of the City personnel rules and regulations as approved by the Council. This includes recommending revisions to the Personnel Policy Manual when necessary, recommending salary and wage scales for all City employees not covered by collective bargaining agreements and direct and oversee the process whereby personnel problems and/or grievances are promptly resolved.

DUTIES, RESPONSIBILITIES AND WORK PERFORMED (CONTINUED):

11. Shall be a member of the City Management Negotiation Team which is responsible for the negotiation of all collective bargaining agreements with City recognized bargaining units.
12. Shall be an ex-officio member of any and all City committees as appointed by the Mayor and/or Council.
13. Shall coordinate and supervise all negotiations with developers seeking annexation and/or re-zoning.
14. Shall attend all Council meetings and all other committees and commission meetings as directed by the Mayor or City Council.
15. Shall direct and coordinate the preparation of the annual City budget and shall be responsible for administration of same.
16. Direct and oversee the City's purchasing policy.
17. Oversee the Tax Incremental Finance (TIF) Districts within the City to include the creation, closing and monitoring of the same.
18. Oversee the rental and upkeep of the Senior Center building complex.
19. Oversee, in conjunction with the City Attorney, the City of Tomah Super Fund Sites.
20. Work closely with department heads to assure that employees receive adequate opportunities for training to maintain and improve their job-related knowledge and skills; and act as the approving authority for requests by employees to attend conferences, meetings, training schools, etc., provided that funds have been budgeted for these activities.
21. In coordination with the Mayor and the City Clerk cause to be prepared the agenda for all meetings of the City Council together with such supporting material as may be required with nothing herein being so construed as to give the Administrator authority to limit or in any way prevent matters from being considered by the City Council.
22. Complete other projects as directed by the Mayor and City Council.
23. The City of Tomah has adopted rules and regulations established for the safety of its employees in the performance of their jobs. It shall be the direct responsibility of the department heads and the first line supervisors to be sure all employees of the City of Tomah comply with the safety rules and regulations. Department heads and first line supervisors shall establish procedures to ensure enforcement of said rules and regulations.

EDUCATION AND EXPERIENCE REQUIRED:

1. Baccalaureate degree in public administration or related field. Masters in public administration, business, or related fields desirable.
2. Have the experience, maturity, self-confidence, and strength of professional convictions to provide administrative insights, counsel, and administrative leadership to the Mayor and City Council. Be able to firmly and diplomatically present professional views, concerns, and implications of proposed policy action which may be under consideration, while also being committed to carry out impartial manner.
3. Have experience in intergovernmental relations, working with appropriate local, regional, state and federal jurisdictions and agencies in a constructive and cooperative manner, respecting City policies and directives in an effective manner.
4. Have experience in mediation-arbitration and general labor relations, possessing a reputation for dealing openly and fairly with individual employees and employee groups.
5. Have experience involving risk management/insurance issues, economic development, land use planning and solid waste management.

POSITION TITLE: City Administrator
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DEPT. Administration

KNOWLEDGE, SKILLS AND ABILITIES:

1. Possess strong financial management abilities, including financial forecasting, revenue enhancement, capital improvement programming and budget development and control.
2. Be skilled in public relations, being capable of articulating the City's municipal policy positions to the media and citizenry.
3. Have strong leadership skills and special capability to promote and maintain employee morale, resulting in delivery of City services in a productive and cost effective manner.

PHYSICAL REQUIREMENTS:

1. Frequently sits at a desk and/or keyboard.
2. Frequent twisting.
3. Reaches shoulder height frequently.
4. Reaches above and below shoulder height.
5. Occasional bending and stooping.
6. Lifts and carries less than 50 pounds.
7. 50% of the work day is spent sitting.
8. 25% of the work day is spent walking.
9. 25% of the work day is spent standing.
10. All percentages above could vary, depending upon the duties performed in the day.

PHILOSOPHY AND GOALS:

Each employee must be committed to the goals of the department/city and communicate to the public the highest level of service, fair treatment, and ethical behavior. Employees shall actively employ diligent care of department/city equipment and resources. Employees must further a personal commitment to physically and mentally maintain the highest level of professional appearance and actions reflecting skill and enthusiasm in all assignments and duties. Employees must provide to the public a trust in the department by always being honest, fair, diligent, and courteous.

Employee Signature

Date

Employer Signature

Date