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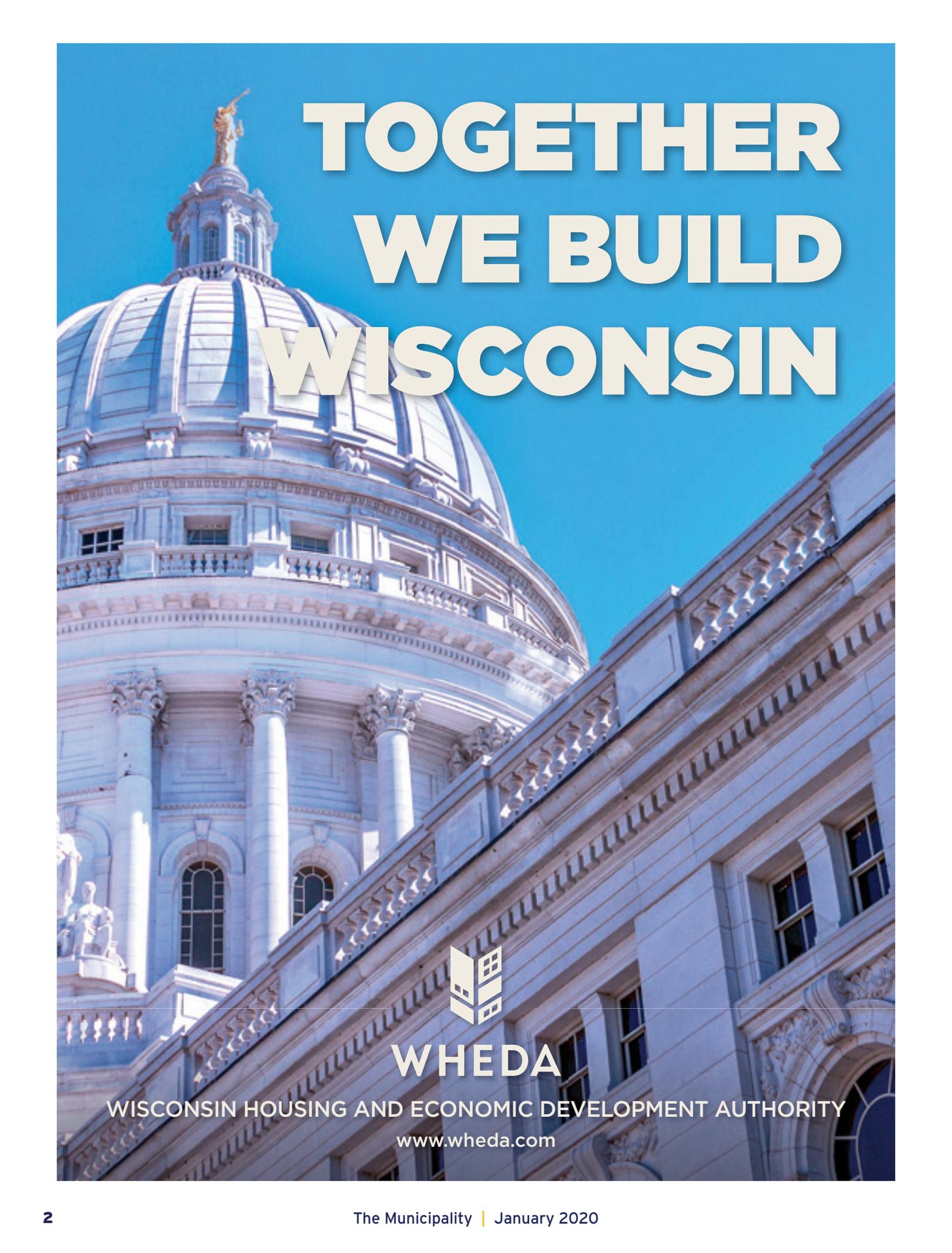
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On the Cover

American Bald Eagle recovery had its roots in Wisconsin with the banning of DDT in 1970, followed by a national ban in 1972. Officially, the first wintering eagle was observed along the Fox River in 1982 during a WDNR mid-winter waterfowl survey. Today the Fox Cities are home to hundreds of wintering American Bald Eagles feeding and roosting along the Fox River. Information thanks to: <http://eagledaysalongthefox.org/about-us/>

Thanks to Dave vonden Heuvel for the cover photo of this American Bald Eagle along the Fox River in Appleton. You can follow Dave on Instagram @davewayne105.7



A low-angle photograph of the Wisconsin State Capitol building, showing the large dome and classical architectural details like columns and a balcony. The sky is a clear, bright blue.

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The Best Election Security

Jerry Deschane, Executive Director, League of Wisconsin Municipalities



Welcome to Election Year! (Okay, stop groaning; we'll get through this.)

Seriously, calling 2020 an important election year might be the biggest understatement possible. All national (and many international) political eyes will be on Wisconsin, as our state is seen as pivotal in the contest for president, there's an important Supreme Court race, congressional and legislative elections, and hundreds of local races. By my unofficial count, at least two of our largest cities (Appleton and Wauwatosa) have open races for mayor, in addition to Milwaukee Mayor Barrett, League President and Wisconsin Rapids Mayor Vruwink, and dozens of other city and village leaders who are up for re-election. The list of important decisions for voters is long.

Because of all this attention, election security will be a major topic of conversation. As we shift to cloud-based computing, hackers by the million have moved in, looking for ways to access municipal computer systems. They're usually looking for citizen information that can be sold or they are locking up critical systems that can then be held for ransom. But there are also plenty of people using the digital "cloudwaves" to look for opportunities to disrupt elections.

That's difficult in Wisconsin. Because of you. Wisconsin has a unique election system. While voter rolls are centralized, there is no central election tallying machine. Elections here

are managed by clerks in 1,852 local governments, overseeing 2,800 polling places and 30,000 poll workers. Wisconsin has 1/6th of all the election officials in the country. To "hack into" that system and make a meaningful difference, someone would have to find a way to gain access to dozens of different systems in hundreds of communities. The sheer breadth of it would make most cyber-disrupters shrug and walk away. Not only that, but the Wisconsin Elections Commission has put numerous safeguards into place and offers extensive training – see the article on page 8 for more on that.

Surely there are challenges, and there will be efforts to disrupt the system. Many municipal computer systems in Wisconsin are out of date and insecure (thanks, in part, to levy limits that have forced local governments to cut back on all but the most dire maintenance needs). With high levels of turnover at the local level, training clerks and others with election responsibilities is an ongoing challenge. Ransomware attacks have the potential to create chaos in isolated locations throughout the state.

So, be vigilant. Change your password. The Wisconsin Elections Commission does an excellent job training election workers; so lean on them. But also be proud of your track record. Elections in Wisconsin are safe, accurate, and professionally-managed. Thanks for protecting democracy.

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Election Day: Not Just a One-Day Affair

Kelly Michaels, MMC, WCMC, Master Municipal Clerk, City of Brookfield

While Election Day is certainly a busy day for clerks, it isn't just a one-day affair. Preparing for and administering elections is like being an event planner and can be quite challenging. Clerks are continually educated in the latest state and federal election laws. A partisan election, with its politically charged environment, is not treated any differently, but does take on a completely different atmosphere than non-partisan elections. This is the reason why clerks often count the number of presidential elections before they retire, instead of the number of years! Voting patterns particular to any one community can be completely different from other communities throughout the state even if they are similar in size. Experience and training help clerks identify patterns, risks, and challenges to plan appropriately for voting paradigms within their community.

Poll Locations

Wisconsin municipalities range from having a single poll location to having nearly 200. In communities where there are multiple polling locations, the complexity of event planning expands to numerous "same-day" events with thousands of "guests" coming to each location. Success means paying close attention to detail with an aptitude for organizational juggling of people, places, and things. The biggest hurdle when looking for a polling location is to find a willing building owner, which is why it is typical for polling locations to be located in public buildings such as schools and municipal halls. Suitable polling locations should be located in or near the general area of the voters they serve, which can significantly limit availability. They must also be handicapped accessible; offer sufficient parking; and provide sufficient space to handle the amount of equipment, supplies, staffing, and voters expected for a large turnout experience. Some municipalities pay to lease polling space while others utilize public locations at no additional cost.

Turnout Projections

Knowing how many voters will turn out is key in determining things like how many ballots to order; poll workers to schedule and train; registration forms to provide; and what to expect for absentee balloting in the weeks leading up to Election Day. If projections are off, it can cause problems resulting in complaints and unfavorable media attention. It could even result in court action to extend Election Day polling hours.

Clerks utilize different methods of analysis when it comes to making these projections. A review of past turnout results for similar election types by polling location and a close eye on public engagement in the weeks leading up to Election Day is a good place to start.

Staffing, Training, and Scheduling Poll Workers

State law requires a minimum of seven workers per poll location or five if utilizing voting machines. In larger municipalities, planning often involves a deeper analysis to identify voting patterns resulting in higher or lower pockets of voter engagement across the municipality. Staffing levels increase to meet specific demands identified in the analysis: adding more voter registration for poll locations near residential developments with apartment buildings and student housing areas with high transient populations is an example. There are many different factors that go into staffing decisions, because voting patterns within municipalities can be as different as municipalities themselves. Small municipalities may find the scheduling of poll workers as simple as calling the five or seven worker who have done it for years. On the other end of the spectrum, large municipalities such as Milwaukee,



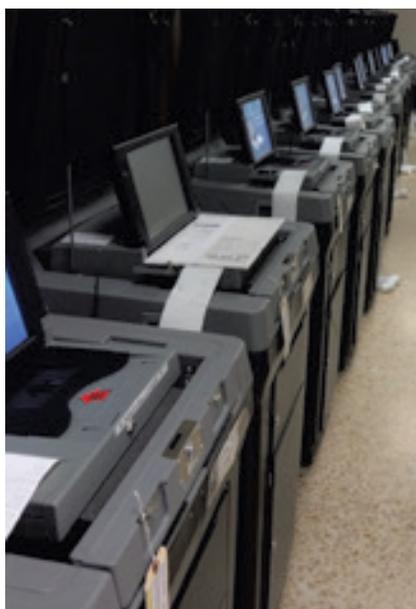
Poll worker training session at Waukesha City Hall.

must find and train 2,500 or more poll workers to fill shifts at nearly 200 different polling locations. Mid-sized municipalities fall somewhere in-between. Training poll workers is required for all clerks. The more poll workers, the more complex the scheduling and time-consuming the training events become. Scheduling has challenges for all municipalities as certain elections fall during peak flu season. Often, clerks must find last-minute replacement workers up to and including Election Day. Sometimes those who are already working agree to extend their shift to a full day in order to cover unanticipated vacancies. Other times, polling locations run short which can cause delays for voters, ballot processing, closing duties, and results reporting. (See “Election Training: An Overview on page 13 of this magazine.)

Drilling Down, Ordering Ballot Stock, Supplies, Programming, and Testing Equipment

Determining ballot stock involves analysis of many factors including projected turnout, past turnout; counts not reflected in the turnout such as ballots that are mailed out and not returned; ballots that are canceled and resent due to being lost in the mail or sent to an old address; remakes of voted ballots, and Election Day spoiling of ballots. Clerks should review ballot proofs to make sure the races and candidates appear on the ballot accurately before placing the order. The appropriate number of supplies such as tables, chairs, pens, etc., is determined based on the number of poll workers scheduled to work. The number of forms such as voter registration, supplemental poll list pages, and sequential voter count methodologies are determined by turnout projection.

The number of booths to place is a formula of one per every 200 voters who voted in the most recent fall general election per state law. Municipalities utilizing equipment must also plan for programming. Clerks work closely with the individual or vendor responsible for programming to make sure each media stick correctly reads the ballot styles for each ward assigned to the poll location where a



Testing of programmed equipment.

particular piece of equipment is in use. Some clerks perform the programming themselves. Following programming, testing to verify the equipment is working properly is a crucial function for success. Planning for the public testing of equipment requires public notice and preparation of test ballots for a pre-determined result. Many clerks also use the public test process as an opportunity to involve chief inspectors in order to refresh their memories on how the equipment works; ballots; security processes; and equipment opening/closing procedures. Once a successful public test is completed, the equipment is security sealed and set for delivery to polling locations on the Monday prior to Election Day.

Absentee Balloting

Some communities receive a handful of absentee ballots they easily process at their poll location, while others experience a rising popularity of “in-person absentee voting.” Communities with thousands and thousands of absentee ballot envelopes require separate “event” planning for the management of those envelopes. Planning for the absentee event requires



Absentee ballots being sorted by ward and then alphabetized in Brookfield.

projecting absentee ballot stock needs; purchasing inner and outside envelopes based on mailing versus in-person use; obtaining postage for mailing both ways; hiring temporary office help to issue the ballots; line management systems; logging ballot envelope returns; and managing ballot envelopes to prepare for delivery, sorted by wards in alphabetical order. Additionally, some clerks must also plan voting events at nursing homes and assisted living facilities located in their community. The law requires two visits to each facility, so the event requires coordination with multiple facilities, as well as the hiring and training of special voting deputies. The visits begin the fourth Monday prior to Election Day and are typically concurrent with absentee voting by mail and in-person. The planning becomes more complex for communities with mega facilities or those with numerous qualifying facilities.

Voter Registration

There are many outside special interest groups promoting voter registration drives with varied degrees of accuracy or follow through. Unfortunately, clerks often hear voter complaints with these drives. Voters report misdirection by “well-meaning” but ill-informed volunteers. In some cases potential voters find they are not registered because the groups did not forward the forms they collected to the municipality. In an effort to protect their residents and combat the spread of misinformation, clerks often issue press releases, social media blasts, and newsletter articles to get their voters accurate information about registering to vote using secure methods such as: online at MyVote, at the polls, or at the Clerk’s Office. Additionally, clerks recommend voters only give their personal information including their date of birth and driver’s license number to someone they know and trust.

Preparing Poll Layout Plans

Planning for multiple polling locations includes creating a well-defined layout and line management plan for each polling location based on the unique characteristics of that premise. The plan identifies where equipment is to be located as well as tables, chairs, polling booths, and signage; and designates areas for each activity such as poll book check-in, voter registration, absentee ballot processing, and observer areas. The plan also identifies areas for the staging of voters for line management and orderly entrance to exit flows with an eye for egress and ADA accessibility including sufficient wheelchair access and turn radius throughout the site as required by state and federal accessibility laws.

The “Day Before” - Preparation, Troubleshooting, and Securing Equipment

Troubleshooting, finding replacement workers, setting up polls, and securing equipment are the main activities the day before Election Day. Setup and securing polling locations along with troubleshooting issues makes the Monday prior to Election Day one of the busiest. It is critical that each site, as well as those with a central count location, receive the correct programmed equipment for that site along with the correct ballots and poll books. Tables, chairs, poll booths, signage, postings, and line management methodologies all need to be set up appropriately, and each location and its equipment needs to be secured. Many small communities that have a single polling location are also busy the day before as a growing number of them utilize the optional electronic poll books system, called Badger Books. In addition to setup activities, clerks in those communities are downloading e-poll books onto electronic equipment as well as testing its function

between several units, its printer, and local area network system. They must then program the unique credentials and passwords for all poll workers who will be utilizing the system. Clerks using Badger Books must also put into place their backup systems prior to securing the location for the night.

Election Day

Election Day is often spent responding to voters looking for polling sites or questions regarding proof of residency and photo ID. Clerks must also make secure delivery of absentee ballots to central count or polling locations. They respond to chief inspectors with procedural questions and provide support and assistance at polling locations for emergencies or other issues. Additionally, clerks often respond to media requests for interviews; complaints; jammed or non-functioning equipment; depleted forms or ballot stock replacement if necessary; procedural or technical assistance in balancing; and results reporting. Clerks remain on the job until Election Day results reporting is complete and may work late into the evening or early morning hours when there are balancing issues or delays in processing very high numbers of absentee ballots.

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The Days and Weeks After

With a 4:00 p.m. statutory deadline the day after Election Day to organize and submit election returns to county and school officials, clerks are right back at the office early the next day. The higher the volume of returns, the more complex and time-consuming the process. Data entry into the WisVote Systems consumes the days and weeks that follow. This is done for historical accounting of election participation, reconciliation of returns, canvassing and certification of winners, as well as state reporting requirements. At this point, audit processes start for all new registrants and 5 percent of communities (approximately 183), are drawn randomly for audits of election results by ward. Municipalities with multiple wards can and often are, selected for audit of more than one ward. Clerks begin planning for the audit upon notification by state officials that their ward was drawn. Clerks may also be involved in planning for a recount event should there be a close candidate race involving their ballots.

Election Season has begun, so thank your professional municipal clerk!

About the Author:

Kelly Michaels began serving as the Municipal Clerk for the City of Brookfield in 2011. Her 30-year career in local government includes prior appointments as the Clerk/Personnel Director for the City of Stoughton and Municipal Clerk for the City of Wausau. She also served as the County Board Supervisor for District 13 in Marathon County (2004-2009). Kelly is on the Board of Directors for the Wisconsin Municipal Clerk's Association serving as its immediate Past President (2018-2019). She currently serves as the Chair of the WMCA Legislative Communications and Advocacy Committee. Contact Kelly at michaels@ci.brookfield.wi.us



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Municipal Clerks and Election Security

Reid Magney, Public Information Officer, Wisconsin Elections Commission

While most states run elections at the county level, Wisconsin's 1,850 municipal clerks have long been on the frontlines of administering our elections.

Whether they're registering voters, recruiting and training poll workers, establishing polling places, or counting votes, municipal clerks provide local service to voters in communities large and small in every corner of the state. They, along with the 72 county clerks, make up the most decentralized election administration system in America.

When it comes to election security, that decentralization can be both a strength and a weakness. Fortunately for the state and its voters, most municipal clerks have responded enthusiastically to the challenge, and are working closely with their county clerks to receive training and plan for safe, secure elections in 2020.

This article describes municipal clerks' role in election security and the Wisconsin Elections Commission's (WEC) efforts to make sure they have the resources and training they need for this very important mission to protect our voters and elections systems from hacking.

Even before election security became a buzzword a few years ago, municipal clerks were integrally involved in protecting the integrity of our elections. The tools and procedures they have used for decades to prevent old-fashioned election fraud like ballot-box stuffing also protect us from newer threats like hacking.

Wisconsin's focus on election cyber security intensified in 2017 with news that Russian hackers targeted Wisconsin and most other states in 2016 in some way. They were unable to access Wisconsin's systems due to the strong defenses provided to the WEC by the Wisconsin Division of Enterprise Technology.

However, that news caused the WEC to redouble its security planning efforts. While we were well protected by the state's firewalls from one kind of attack, we recognized that the statewide voter registration system could also be vulnerable if a local election official's access credentials were somehow compromised.

WEC adopted a multi-layered approach to protecting the statewide voter registration system, which WEC provides for

clerks to use for managing voter registrations and election data. The challenge of securing the system is compounded by the large number of users, many of whom are part time and do not have IT departments to support them.

Online Cybersecurity Training

The WEC's security team realized the importance of training local election officials in basic cyber hygiene practices to protect their systems and state systems from multiple threats including viruses, email phishing campaigns, and ransomware.

After researching several commercial options to provide cybersecurity training, the WEC concluded the most effective option was to create its own series of online learning modules focused on cybersecurity best practices, tailored for election officials across the state. By creating a baseline training program open to all local governments, the WEC helped bridge cybersecurity awareness gaps among system users and enhanced overall cybersecurity in local governments statewide.

WEC staff developed a series of six online training modules, known as Securing WisVote, and made them available to clerks on the agency's secure Learning Center website. Clerks who are users of the WisVote system are required to complete the training before gaining access.

WEC received an award in February 2019 from the U.S. Election Assistance Commission (EAC) for Outstanding Innovations in Elections for the Securing WisVote cybersecurity training program.

In-Person Cybersecurity Training

WEC also recognized the need to make sure clerks are prepared for an event that could disrupt an election, whether it came in the form of a cyberattack, a natural disaster like a flood or tornado, or even a terror attack.

In March 2018, WEC staff attended an election security training and tabletop exercise (TTX) hosted by the Defending Digital Democracy Project at Harvard Kennedy School of Government's Belfer Center in Boston. At the event, WEC staff worked with election officials and partners from across the United States to learn about election security best practices, as well as to participate in a TTX that simulated real-life security

related events that could potentially occur leading up to, and including, Election Day.

The WEC staff learned a great deal from the TTX and decided to adopt a similar model, focused on operational, physical, and cybersecurity, and tailored to the way we administer elections in Wisconsin.

WEC realized the importance of making that kind of training available to every municipal clerk in Wisconsin. WEC partnered with county clerks to help deliver the new training program throughout the state, starting in the spring of 2018. Since then, more than 1,500 local election officials have participated in the tabletop training exercises. WEC staff recently launched TTX 2.0 with a new set of scenarios and challenges designed to help clerks get ready for 2020.

In response to clerk suggestions, WEC has also recently developed new election security communications training exercises for municipal and county clerks. Clerks can view a webinar online and attend in-person communications training exercises being offered around the state. The training is based on a media toolkit the WEC developed for clerks, which provides sample news releases and holding statements for a variety of potential election security scenarios.

Technology - State

In addition to creating several kinds of cybersecurity training for local election officials, WEC has taken extraordinary steps to enhance the security of its systems by working closely with its technology and law enforcement partners in state and federal government. These steps include:

- Encrypting data on WEC servers and between the servers and users, so in the unlikely event of a breach, any data stolen would be unusable.
- Instituting a new system access policy requiring all users to complete the award-winning online training series. New users must complete security training before gaining access to the system and existing users were required to complete the training prior to the November 2018 election.
- Implementing Multi-Factor Authentication (MFA) for system access before the November 2018 General Election. All WisVote users must now use a third identification factor, in addition to their username and password, to gain access to the system. This involved providing nearly 3,000 WisVote users – mostly municipal clerks and their staffs – with FIDO security keys and training on the new MFA system.
- Upgrading existing monitoring tools to alert staff of any suspicious activity within the system.

- Redesigning reports that clerks can save and print from WisVote so they do not contain confidential information, such as voters' dates of birth and driver's license numbers.
- Completing risk, vulnerability, and penetration assessments in conjunction with U.S. Department Homeland Security and the Wisconsin Department of Administration – Division of Enterprise Technology (DET). The assessment found no evidence of any unauthorized access to Wisconsin's elections systems.
- Implementing an endpoint testing program, which requires users of WisVote to install a small program on their computers. When users access WisVote, the endpoint testing program reports on whether the computer's operating system and antivirus programs are up to date and secure. WisVote users must have up to date systems by January 28, 2020.

Technology - Local

In 2019, WEC has focused on making sure all municipal clerks have the technology and support they need to securely serve their voters. The commission approved a \$1.1 million Election Security Subgrant Program using federal election security funds. The program is designed primarily to help small municipalities where clerks were using outdated computers or their own personal computers to conduct official business, and where clerks do not have professional IT support.

Clerks could apply for up to \$1,200 to cover the costs of purchasing a computer, contracting for professional IT support services, and attending in-person election security training. The final numbers are still coming in, but the WEC processed 830 subgrant applications and has approved payments to approximately 664 towns, 115 villages, 46 cities, and five counties. Of the \$1.1 million originally allocated, approximately \$813,500 will be disbursed in this round of funding. Grants were distributed to every corner of the state in 71 out of 72 counties.

Though the November 15 deadline to apply for grants has passed, WEC is studying additional clerk security needs to allocate the remaining federal grant funds. Clerks have already been surveyed about their additional security needs, and the endpoint testing program, mentioned above, will help provide WEC staff with information about those needs. Possibilities include providing emergency technology grants to municipalities, especially those where a new municipal clerk comes into office and finds substandard technology resources.

WEC will also be working with clerks to help them get secure email addresses that have the @wi.gov domain. Many

municipalities use email domains that end in .com or .org, which could be vulnerable to impersonation.

Public trust in information provided by local election officials is important in all public communications – including information provided via email and local county and municipal websites. Many clerks are currently using Google, Yahoo, Hotmail, and other free email domains to communicate with voters. Free email services generally do not employ robust malware scanning features that would be an additional layer of security for clerks. In addition to the risk of malware or ransomware attacks, a bad actor could easily obtain an email domain designed to trick the recipient that it is from a government entity, allowing them to send disinformation that may cause disruption in the election process. This is because only the .gov domain is regulated by law. Other domains, such as .com, .org, and even .us are freely available to anyone willing to pay for them.

Municipal Clerk Election Security Responsibilities

This is a partial list of the important things municipal clerks do to ensure Wisconsin elections are secure:

- Municipal clerks are responsible for voter registration, which requires a majority of them have computer access to the Wisconsin's voter registration system. Larger municipalities generally handle entering and maintaining voter registration records in the system. Many smaller municipalities have what are known as relier agreements with their county clerks or a neighboring municipal clerk to enter records in the state's system.

- Municipal clerks receive electronic notifications from the state when there are new online registrations through the MyVote Wisconsin website, as well as requests for absentee ballots from voters at home, living overseas, and serving in the military.
- State law places responsibility for purchasing voting equipment on municipalities. To ensure continuity and compatibility, many municipalities work with their county clerks to coordinate purchasing and upgrading their voting equipment. Some counties share voting equipment costs with their cities, villages, and towns.
- Municipal clerks are responsible for training election inspectors (poll workers) in proper security procedures for ballots and voting equipment, including checking security seals and maintaining chain-of-custody records.
- Many municipal clerks provide secure storage facilities for voting equipment when it is not in use.
- Many municipal clerks provide secure storage for ballots and other election materials until they can be legally destroyed 22 months after a federal election.

About the Author:

Reid Magney is public information officer for the Wisconsin Elections Commission. He joined state service in 2009 after a 25-year career in journalism, including 14 years at the *La Crosse Tribune*, covering government, politics, and elections. You can reach him at reid.magney@wi.gov



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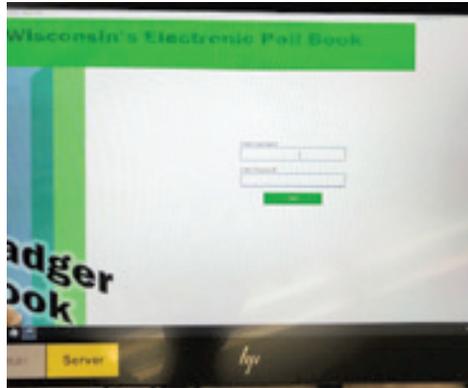
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CORRECTION: it is important to clarify that Badger Books, used to check in and register voters and process absentee ballots at local polling places, do NOT use an internet connection.

Badger Book Overview

In 2017, Wisconsin Elections Commission staff developed an electronic poll book system to be used in polling places in Wisconsin on Election Day. The “Badger Book” is electronic poll book software that is specific to Wisconsin elections practices and statutes. The Badger Book is the only electronic poll book software created with direct WisVote integration. Badger Book does use an internet connection.

The Badger Book is primarily used to check in voters, process absentee ballots, and register voters on Election Day. The Badger Book maintains the voter number and count independent of poll worker input. Each process was chosen and designed based on feedback provided by clerks and poll workers from across the state. After Election Day, a data file generated from the Badger Book is used to upload election participation and Election Day Registration information into WisVote.



Optional use of Badger Books are becoming more prevalent in smaller communities throughout Wisconsin.

The Badger Book is currently supported on the HP ElitePOS 141 Point of Sale retail terminal. One Badger Book station includes the main terminal computer with a touch screen for electronic signature capture, a wireless mouse, a wireless keyboard, a barcode scanner, a case of thermal printer paper, and a printer that can either be integrated into the terminal base column or as a stand-alone printer. Additionally, a router and an encrypted, password-protected USB memory stick must be purchased for each polling place. The router facilitates communication locally between the Badger Book machines. The USB stick is used to transfer data from an internet-connected computer to the Badger Book server machine.

Source: <https://elections.wi.gov/elections-voting/badger-book-introduction>





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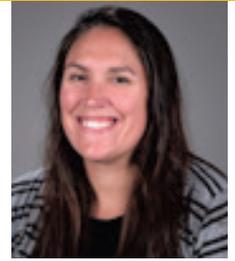


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Election Training: An Overview

Nikki Perez, WCMC, Municipal Clerk, Madison City Clerk's Office



Our goal is for each eligible voter to be able to cast a ballot and have that ballot counted. As a municipal clerk for the City of Madison Clerk's Office, this is a saying that I know well. This goal drives our election administration process, and all Madison poll workers can recite it on the spot. This phrase appears on the first slide of every training we produce, and it provides a framework for our values, processes, and procedures. The most important factor in reaching this goal is preparedness and training.

Well-trained election officials are a key component of fair, transparent, and trusted elections. Election administration is complex, and municipal clerks in Wisconsin have the unique and rewarding responsibility of conducting elections in a manner that is consistent with the law and voter expectations. Fortunately, municipal clerks are not alone in their tasks: there are various other participants and government organizations that work together to ensure municipal clerks and poll workers are well-trained, supported, and accountable. These participants include:

- Municipal clerks
- Wisconsin Elections Commission (WEC)
- County clerks
- Election inspectors and chief inspectors
- Other election officials, such as school district clerks, greeters, tabulators, and temporary election aides
- Board of Canvass members
- Observers
- Voters
- Volunteers and partners

This complex web of election participants creates a checks-and-balances system that, joined with effective training, promotes transparency and gives voters confidence in Wisconsin elections.

Municipal Clerks: A career of learning

The core of election preparedness lies with the municipal clerk. Municipal clerks are the primary administrators responsible



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for conducting elections at the local level. They must facilitate voter registration, absentee balloting, candidate filings, and legal notices. Municipal clerks coordinate polling place logistics, including staffing, equipment, emergency planning, and accessibility compliance. They also manage the important task of ensuring all election inspectors are adequately trained.

To be certified to conduct elections, municipal clerks must take a three-hour Municipal Clerk Training Core Curriculum (MCT Core) course before their first election, and then at least six hours of election-related training every two years. The MCT Core course covers all aspects of election law and municipal clerk duties defined by the Wisconsin State Statutes.

Many municipal clerks join the Wisconsin Municipal Clerks Association (WMCA), which provides access to a community of other municipal clerks and training resources across the state. The WMCA offers a platform for clerks to ask questions, to share innovative ideas, and to develop leadership skills. Often, WMCA members will attain certification as a Wisconsin Certified Municipal Clerk (WCMC). This certification requires graduation from the UW-Green Bay Municipal Clerk's Institute and additional training hours. Furthermore, some leaders go a step further and attain

Wisconsin Certified Professional Clerk (WCPC) status, which is a commitment to sharing knowledge and insight with fellow municipal clerks.

While the WMCA and UW-Green Bay Institute provide invaluable training access to those who are able to utilize these resources, all municipal clerks have access to training and support from the Wisconsin Elections Commission and their local county clerk. The support and training that these agencies provide are vital to ensure all levels of the election process are compliant and transparent.

Support for Clerks: Wisconsin Elections Commission and County Clerks

The Wisconsin Elections Commission (WEC) is the state agency responsible for overseeing elections in Wisconsin. WEC holds the election process accountable by setting the training requirements for municipal clerks, chief inspectors, and regular election inspectors. They also provide ongoing support in the form of in-person trainings, webinars, written manuals, and communication memos. Additionally, WEC works closely with county clerks to lead election security efforts. They aid municipal clerks in implementing security programs for election equipment and for users of the statewide voter registration database, WisVote.

County clerks are the election officials at the county level and provide accountability by ensuring consistency among ballot designs across their county. County clerks support municipal clerks by offering additional training, technical support for WisVote and election equipment, and data management. They also post the official results on election night.

It is imperative that these three agencies – WEC, county clerks, and municipal clerks – work together to ensure elections are conducted in a fair, transparent, and consistent manner throughout Wisconsin.

Election Inspectors and Election Day

Wisconsin municipal clerks are directly responsible for coordinating voting at polling places on Election Day. The number of polling places a clerk is responsible for varies widely, from 1 to 90 or more, and each polling place is staffed by election inspectors, also known as poll workers. To be an election inspector, you must be a qualified elector of the county where you are serving, and you must receive training from your municipal clerk. The State of Wisconsin requires that each election inspector is adequately trained, and many municipal clerks conduct training before each election. If election laws change, the municipal clerk is responsible for ensuring their

election inspectors are aware of the change and trained accordingly.

The chief inspector is the designated individual who oversees the operations at a particular polling place. Chief inspectors are required to take a three-hour baseline course before their first election, and then six hours of election-related training every two years. The Baseline Chief Inspector course covers all aspects of election law and Election Day procedures. It prepares chief inspectors to troubleshoot equipment malfunctions, disruptive situations, and staffing issues. Municipal clerks are responsible for coordinating training for their chief inspectors and providing support before and during Election Day.

Checks-and-Balance System: Engage, Observe, Review

While WEC, county clerks, and municipal clerks all play vital roles in making sure election officials and inspectors are well-trained for Election Day, other participants provide balance to the system. Voters, observers, and Board of Canvass members all play roles by engaging, observing, or reviewing the election process.

► p.15



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In the era of the internet and social media, increased voter engagement can prove useful in gathering feedback and improving the quality of the election process. Encouraging eligible voters of all backgrounds to participate in the election process will further expand feedback sources and provide an equity lens for process improvement. Observers also play a role, and anyone who is not a candidate on the ballot can observe at a polling place. Voters and observers who bring attention to and alert officials about potential issues help build trust in the process.

After an election, several review processes occur. The local municipality, school district, county, and state each have a Board of Canvassers that certify election results for their respective offices and review documentation. Additionally, there are several avenues available for auditing an election or polling place. WEC conducts various election equipment and accessibility audits, and county and municipal clerks are encouraged to conduct audits of their own.

Training and Preparedness Start Early, Involve Many

While the public typically views elections as one-day events, municipal clerks actually begin planning months in advance. Right now, participants at all levels of the election process are actively receiving training and preparing for the 2020-2021 election cycle. WEC has rolled out several new election security measures for municipal clerks to implement. Municipal and county clerks are reviewing and updating their emergency plans and continuity of operation plans. Municipal clerks are certifying their list of election inspectors and preparing for candidate filing deadlines. Newer clerks across Wisconsin may have attended UW-Green Bay's first Presidential Election Academy that includes a New Clerk Boot Camp and other opportunities for training and networking.

As Election Day draws near, clerks are busy administering absentee voting measures, preparing for Election Day,

and engaging in voter outreach efforts. These programs occasionally require the recruitment of additional election officials, volunteers, or partner agencies, all of whom must be trained. The municipal clerk is responsible for funneling the vast knowledge of election law to participants at each level, and instilling integrity as a central value.

► p.16

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*Nov. 6, 2018 www.channel3000.com/news/politics/turnout-in-madison-just-under-30-at-midday-clerk-says/848115227

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Shared Values

Over the past few years, election laws in Wisconsin have sometimes undergone sudden and significant changes. With each new change, participants at all levels in the election process were ready to shift, learn, and teach. Successful election practices are driven by election officials who are adaptable, value learning and improvement, and set voter-driven goals.

The quality and integrity of the election process has never been more important, and well-trained election officials play

a key role. Ensuring accuracy and integrity at each step in the election process further emphasizes the values that both election officials and voters share: trust, transparency, fairness, and accountability in Wisconsin elections.

About the Author:

Nikki Perez is a Wisconsin Certified Municipal Clerk (WCMC) with the City of Madison Clerk's Office. She has been working in the field of election administration for eight years. Contact Nikki at NPerez@cityofmadison.com or www.cityofmadison.com/clerk and Twitter: [@MadisonWIClerk](https://twitter.com/MadisonWIClerk)

DID YOU KNOW?



Voting by the Numbers

- ★ **1,850** - the number of Wisconsin city, village, and town clerks who are responsible for maintaining voter lists, managing polling places, and hiring poll workers. Together with the 72 county clerks responsible for printing ballots and programming voting equipment, Wisconsin has the most decentralized election administration in America.
- ★ **3,000** - the approximate number of local election officials with credentials to access the statewide voter registration system. Every user is required to complete six modules of online security training before gaining access to the system and to use multi-factor authentication when logging in. Starting in January 2020, system access will be limited to computers meeting security standards monitored by an endpoint testing program.
- ★ **30,000** - the approximate number of election officials/inspectors who work at the polls on Election Day. Some are nominated by the two major political parties, but many have no political affiliation.
- ★ **2,800** - the approximate number of polling places available to voters each general election.
- ★ **3,329,127** - the number of active registered voters in the statewide voter registration system on October 1, 2019.
- ★ **2,673,308** - the number of voters who turned out for the 2018 midterm elections, which is 59.4 percent of the voting-age population, a record turnout. In 2016, there were 3,004,051 voters - a 67.3 percent turnout.
- ★ **100%** - the percentage of Wisconsin votes cast on paper ballots or with a paper backup:
 - **85%** on optical-scan paper ballots.
 - **10%** on DRE (touch-screen) equipment with a voter-verified paper audit trail.
 - **5%** on hand-counted paper ballots.
- ★ **150,000** - the approximate number of ballots recounted by hand from 186 randomly-selected reporting units in all 72 counties prior to certification of the 2018 General Election during the voting equipment audit. Note: The municipalities where voting equipment was audited represent more than 40 percent of all of the ballots cast statewide for this election.
- ★ **1,500+** - the number of local election officials who have participated in the WEC's election security tabletop training exercises since 2018. These sessions will continue throughout 2020.
- ★ **1 in 500,000** - the federal standard for voting equipment errors. No Wisconsin voting equipment has ever failed to meet this standard.

Source: Wisconsin Election Commission.

Collaboration Builds Trust, Trust Builds Relationships



Jerry Deschane, Executive Director, League of Wisconsin Municipalities



Longtime Appleton Mayor Tim Hanna is not running for re-election in 2020, ending his 24-year tenure as the chief executive of Wisconsin's sixth largest city. Instead he will be taking the reins of the Local Government Institute (LGI), a nonprofit research organization created by the League, the (now defunct) Alliance of Cities, the Wisconsin Counties Association, and the Wisconsin Towns Association. LGI was founded in 2007 to foster collaboration among local governments. Its founding Executive Director, Gary Becker, is retiring. The transition between Becker and Hanna will take place in April.

LGI was created by the four local government organizations to enhance collaboration among their members and to pursue research on the most efficient and effective ways to deliver local services. Over the years, that mission hasn't changed. Under Mayor Hanna's leadership it isn't likely to, because, as Hanna says, the underlying need is still the same.

"In a word: money," he told us. "There are piles of research reports from LGI, the Kettl Commission, the Sheehy Task Force and others that all say the same thing, the way Wisconsin organizes and funds local government is in need of fundamental reform. That has been the case for decades, and today there is an even more pressing need for systemic change. Time's up, people. It's time to do what these smart people have been saying for 50 years."

Early in its 12-year existence, LGI supported research into the types, numbers, and responsibilities of Wisconsin's cities, towns, counties, and villages. That research identified a variety of ways those local governments could collaborate, using case studies to shine a spotlight on places where such collaboration is already taking place. Interestingly, LGI's research discovered early on that it's not *the number* of local governments that matters, it's how they deliver services that can lead to better quality or cost savings. The organization has been spreading the word through workshops and publications on its website.

The website (<http://www.localgovinstitute.org>) is a working library for individuals interested in the topic of governmental efficiency and collaboration. In addition to its own work, LGI has gathered together in one place all of the reports from the various government commissions and task forces that have studied the topic of local government efficiency and collaboration in Wisconsin. All of the material on the website is available to the public.

Recently, LGI supported several "Future Regions," relying on the leadership of futurist Rebecca Ryan, a Wisconsin thought-leader and author. Those Future Regions have each been unique, but they share a common theme of building relationships among citizens, business groups, and local governments to identify future possibilities. The regions then created plans to work toward those unique local futures.

Relationship-building will be Hanna's theme. "LGI will be creating opportunities for members to interact with each other. That interaction, between town and county supervisors, village officials and city leaders, will build relationships and over time those relationships build trust. You can't talk about collaboration without the parties trusting one another."

A second theme is to identify the areas where local government groups agree. The recently-enacted state transportation budget is an example. Through a cooperative venture called "Just Fix It," counties, towns, cities, and villages spoke with one voice to the Wisconsin Legislature, calling for sustainable funding for the entire state transportation system, rather than each group lobbying independently for its own piece of the too-small pie.

That resulted in the largest funding increase for local and state transportation systems in over a decade.

“We will be looking for the common threads among the local governments. There are probably more areas where we agree than where we disagree. I want to identify some of those and build on them.”

Hanna said the system of funding local government is a likely first place to examine. According to a recent study by the Wisconsin Policy Forum, no other state in the country relies as heavily and exclusively on the property tax to fund local government as Wisconsin does.

“I can see the same process working for revenue reform that worked with Just Fix It. We need to identify the common threads and use that to speak with one voice,” he said.

On a personal level, Hanna admits that it will be a culture-shock to move from being the CEO of a major Wisconsin city to working in a one-man office. On the other hand, he looks forward to continuing his working relationships with local government leaders throughout the state. He also is eager to dive into the work of LGI.

“I love what I do, and I love this city. It’s just that I’m at one of those points in life where my energy can be more usefully-directed on the broader issues of local government. The day-to-day work of being a mayor is important; it’s critical, but it also comes with its own sort of stresses, and those stresses wear you down after a while.”

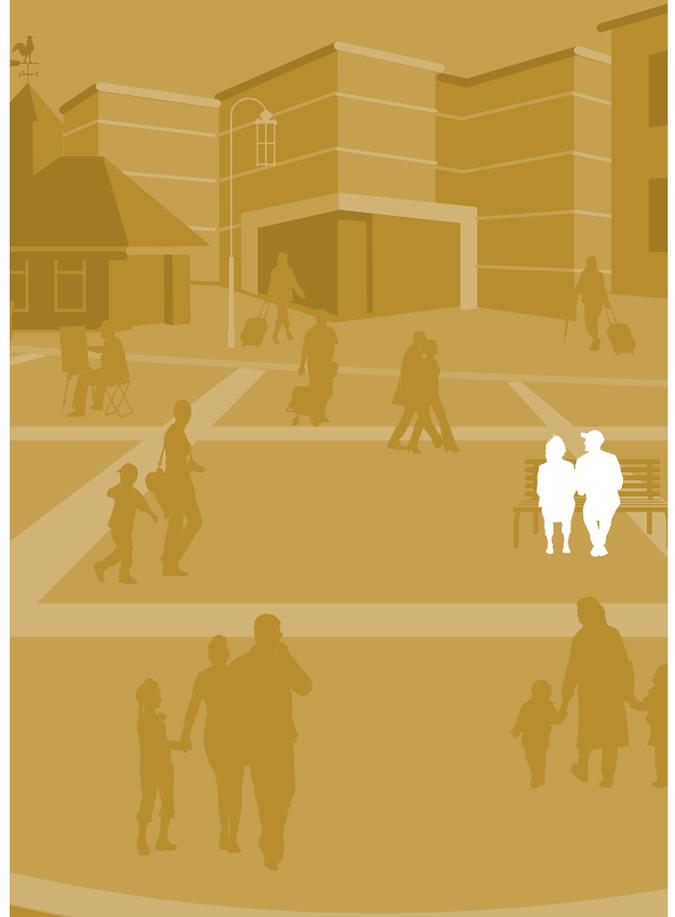
“I can’t not do anything; I’m too passionate about the big picture stuff. There are fundamental structural issues that simply need to change. It will be both a privilege and a challenge to focus on those issues and to be part of a movement to change them.”

In addition to his work for LGI (which is technically “part time”), Hanna hopes to work one-on-one with a few communities, in Wisconsin and in other states. As the mayor of Appleton, he brought a unique collaborative ethos to the city, both in its internal operations and its work with surrounding communities, all of it with a future focus. “I would love to help other local governments think about the future. Not about planning; although planning is important. There’s a step that needs to come before planning. Communities need to build a better framework, both internally and in their region; a framework of collaboration within which you can do strategic planning. Without that framework, plans just gather dust because you don’t have the tools to implement the plans.”

Building those frameworks, one at a time and statewide through the Local Government Institute, is Tim Hanna’s next career focus.

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Wisconsin Relies Most on Property Tax in Midwest

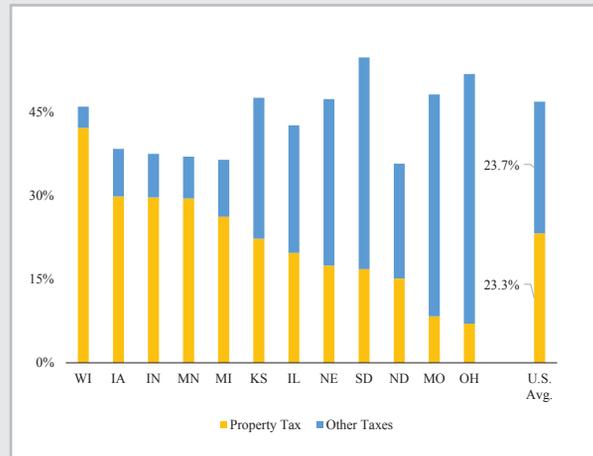
Cities and villages in Wisconsin rely more heavily on property taxes than any other state in the Midwest, and to a greater degree than most states nationally.

In 2015, Wisconsin municipalities received 42.2 percent of their revenues from the property tax, but only 1.6 percent from sales and income taxes combined. Nationally, on average, municipalities got 23.3 percent of their revenues from the property tax with 21.3 percent from sales and income taxes.

This graphic shows property and other taxes as a share of municipal revenue in 2015 in Midwest states.

In Wisconsin, municipalities' increased dependence on the property tax is the result, in part, of state aid failing to keep pace with inflation. At the same time, the state also imposed limits on how much municipalities may raise property taxes annually to support operations; those limits have been set generally at 0 percent except for increases in property values due to new construction.

Our research found that Wisconsin's property tax limits appear to be the most restrictive among states that depend heavily on this tax.



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Elections Q & A

Claire Silverman, Legal Counsel and Maria Davis,
Assistant Legal Counsel, League of Wisconsin Municipalities

May the same person run for more than one municipal office at the same election? For example, may a person run for the offices of village president and village trustee in the same election?

Yes. The same person may run for more than one local nonpartisan office at the same election. Wisconsin Stat. § 8.03(2m) provides that “a candidate may appear on the ballot for more than one local nonpartisan office at the same election.” However, if a person is elected to both offices, the incompatibility of offices doctrine would prohibit holding both offices. In *In re Appeal of Board of Canvassers of City of Bayfield*,¹ the Wisconsin Court of Appeals upheld the validity of ballots on which the same person received votes for mayor and alderperson. However, the court noted that the law allows a person to hold only one of two incompatible offices and that when a second incompatible office is taken, the first is vacated. Thus, for example, although the same person may run for village trustee and president, that person may hold only one of those offices. If the person winning both seats chooses to be sworn in as village president, the trustee office will be vacant and the village board can then fill the village trustee vacancy pursuant to Wis. Stat. § 17.24.

Which city and village offices are filled by election?

Wisconsin law requires that governing body members (mayors, alderpersons, village presidents, and trustees) and municipal judges be elected by the voters, although a vacancy on the governing body may be filled by appointment.²

Other municipal officers, with the exception of police and fire chiefs in municipalities required to have police and fire commissions,³ may be selected by one of the following methods:

1. Election;
2. Appointment by the mayor or village president;
3. Appointment by the mayor, or village president, subject to governing body confirmation;
4. Appointment by the governing body; or
5. Selection under any of the above methods pursuant to a civil service system.⁴

In villages, in addition to election of governing body members, the statutory default provides for an elected clerk, treasurer, assessor,⁵ and constable.⁶

Municipalities may change the method of selection by charter ordinance pursuant to Wis. Stat. §66.0101.⁷

What are the standard terms of office for elected municipal officers? Can a municipality change the terms of office for elected officials?

Unless otherwise provided, the term of office for all city and village elective officers is two years.⁸ The regular term of office for village presidents, trustees, mayors, and alderpersons begins on the third Tuesday of April in the year of their election. The regular term of office for other village and city officers begins on May 1 following their election unless otherwise provided by ordinance or statute. A village or city may change the term of office by charter ordinance.⁹ Also, a common council may, by regular ordinance adopted by a recorded 2/3 vote of all members, divide the city council into two sets of alderpersons and have one set elected for two years and the other for four years and thereafter have the term of alderpersons be four years.¹⁰

Municipal judges have four-year terms unless a different term, not exceeding four years or less than two years, is established by charter ordinance. The municipal judge’s term begins on May 1 in the year of their election.¹¹

► p.22

1. *In re Appeal of Board of Canvassers of City of Bayfield*, 147 Wis. 2d 467, 433 N.W.2d 266 (Ct. App. 1988).

2. Wis. Stat. §§ 61.197, 62.09(3), 64.04 and 64.05(2); Wis. Stat. §§ 17.23, 17.24.

3. Regardless of the method of selection used for police and fire chiefs, their tenures may not be for a defined term because they hold their offices during good behavior and are only subject to suspension or removal for cause.

4. Wis. Stat. §§ 61.197, 62.09(3) and 66.0509.

5. However, no assessor may be elected (or appointed) if the village has come within the jurisdiction of a county assessor under Wis. Stat. § 70.99.

6. Wis. Stat. § 61.19.

7. Wis. Stat. §§ 61.195, 61.197, and 62.09(3).

8. Wis. Stat. §§ 61.20(1), (2) and 61.23(1); Wis. Stat. § 62.09(5)(b).

9. Wis. Stat. §§ 61.195, 66.0101; Wis. Stat. § 62.09(5)(b).

10. Wis. Stat. § 62.09(5)(c).

11. Wis. Stat. § 755.02.



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When is a referendum advisory and when is it binding? When must a municipality hold a binding referendum? When can a municipality hold an advisory referendum?

Generally, a referendum is advisory unless there is a statutory or local requirement that makes it binding. Examples of statutory requirements to hold a binding referendum include the following: petitions for annexation by referendum (Wis. Stat. §§ 66.0203(2) and 66.0211), referendum to exceed levy limit (Wis. Stat. § 66.0602(4)), and issuing bonds for purposes other than those listed in Wis. Stat. § 67.05(5).

Although no specific statutory provision authorizes municipalities to conduct advisory referenda,¹² the broad grant of statutory home rule power to villages (Wis. Stat. § 61.34) and cities (Wis. Stat. § 62.11(5)) alleviates the need for a specific grant. In past opinions the League has consistently concluded that municipal governing bodies may submit advisory referenda to the electors and the results of such referenda are, by their very nature, not binding on the governing body.¹³

Although no statutes specifically govern advisory referenda, state law contemplates advisory referenda. Wisconsin Stat. § 8.06 provides that municipalities may call special elections for any purpose authorized by law and § 5.02(16s) defines “referendum” as “an election at which an advisory, validating or ratifying question is submitted to the electorate.” Additionally, the Wisconsin Supreme Court has by implication recognized the existence of advisory referenda in the various cases in which it has invalidated attempts at direct

legislation under § 9.20 and declared that they have the force only of advisory referenda.¹⁴

Although various other sections refer to referenda, such as §§ 5.64(2) (referendum ballot) and 7.15(2)(d) (clerk’s duties when a municipality conducts a referendum), municipal advisory referenda are not explicitly covered by the statutes. In the past, the League has opined that, since there are no specific provisions concerning municipal advisory referenda, a municipality may hold such a referendum whenever it pleases and may follow whatever notice and ballot form it chooses. However, the Wisconsin Elections Commission (WEC) stated the following in a July 4, 2018 communication to clerks summarizing guidance that the WEC and its predecessor agencies, the Government Accountability Board and the State Elections Board, have provided to local election officials regarding advisory referendum petitions and elections:¹⁵

An advisory referendum election is a public election subject to all of the procedural requirements as other elections, including the posting and publication of election notices; responsibilities of clerks, special voting deputies and election inspectors; absentee ballot procedures; use of electronic voting equipment; and canvassing of election results. Specifically, Wis. Stat. § 5.64(2) governs the form of the referendum ballot. Also, in the case of an advisory referendum that is not scheduled on the date of a regular election, Wis. Stat. § 8.55 governs election notice requirements for a special referendum.

Is a village or city required to hold a referendum election on an issue merely because a resident or group of residents requests one by petition?

No. The instances in which a resident or resident group may compel a governing body to hold a referendum election using a petition or otherwise are limited to those circumstances specified by state law or local ordinance. For example, state law requires a referendum be held in some annexation actions if a sufficient number of qualified petitioners file a referendum petition.¹⁶ Likewise, a referendum would result from a proper petition for direct legislation (see Elections 593 for an in-depth discussion of direct legislation petitions) and the governing body’s failure or refusal to adopt the proposed ordinance or resolution.¹⁷ In the absence of a specific statute such as these or a local ordinance, a governing body has no legal obligation to hold a referendum election on an issue solely because residents request one by petition.

What is a charter ordinance and how does a municipality adopt one?

A charter ordinance creates or revises any part of the charter of a city or village. Charter ordinances are used when a municipality elects not to be governed by state laws relating to its local affairs and government, other than laws enacted by the legislature that are of statewide concern and with uniformity affect every city and village.¹⁸ In Wisconsin, the general city charter law is Chapter 62 of the Wisconsin Statutes (specifically, §§ 62.01-62.26) and applies to all cities except Milwaukee, which has a special charter. The village charter law is Chapter 61 and applies to all villages.

► p.23

12. In contrast, Wis. Stat. § 59.07(67) expressly authorizes counties to conduct a countrywide referendum for advisory purposes.

13. See Elections 565, 578, 593 and Powers of Municipalities 730.

14. See, e.g., *Landt v. City of Wisconsin Dells*, 30 Wis. 2d 470, 141 N.W.2d 245 (1966).

15. See WEC Advisory Referendum Petitions Frequently Asked Questions 6 available online at <https://elections.wi.gov/node/5919>.

16. Wis. Stat. § 66.0217(3).

17. Wis. Stat. § 9.20(4).

18. Wis. Stat. § 66.0101(1m), (4).

There are a number of different ways municipalities can adopt a charter ordinance under Wis. Stat. § 66.0101. However, a charter ordinance is originated in only two ways: by the governing body or by petition of the electors. A charter ordinance initiated by a governing body may be adopted by the governing body or submitted to the electorate for adoption. A charter ordinance initiated by and adopted by a municipal governing body needs a two-thirds vote of the members-elect of the city council or village board to be valid.¹⁹ However, a charter ordinance is not effective until 60 days after its passage and publication. If within the 60 days a petition signed by a number of electors in the municipality equal to not less than 7 percent of the votes cast for governor in the last general election is filed with the municipal clerk, then the charter ordinance must be submitted to a referendum and does not become effective unless approved by a majority of the electors who vote in the referendum.²⁰

Additionally, the governing body may, after adoption, submit the charter ordinance to a referendum without waiting for a petition by the electors. The charter ordinance would then become

effective if approved by a majority of the electors who vote. A governing body can also simply decide, by a majority vote, to submit a charter ordinance to a referendum, without an initial petition requiring them to do so and without adoption of the charter ordinance by the governing body. The charter ordinance would then become effective when approved by a majority of the electors voting.²¹

A charter ordinance initiated by the municipal governing body for adoption at a referendum requires only a majority vote of the members-elect of the city council or village board. Such ordinance would be submitted to a referendum vote for adoption and would be effective if approved by a majority of the electors voting.

A charter ordinance must be published as a class 1 notice. The municipal clerk must also record an adopted charter ordinance in a permanent book kept for that purpose, with a statement of the manner of its adoption. The clerk must also file a certified copy of the charter ordinance with the secretary of state who, in turn, is required to keep and publish

a list of charter ordinances arranged in alphabetical order by municipality.²²

What is a caucus?

The caucus is a method that villages may use for nominating candidates to be placed on the Spring Election ballot. Caucuses are governed by Wis. Stat. § 8.05(1). For more information on caucuses, see the Wisconsin Elections Commission’s publication *Procedures for Nomination of Candidates by Caucus*, available at https://elections.wi.gov/sites/elections.wi.gov/files/publication/65/caucus_manual_rev_2017_08_pdf_17108.pdf

Elections 608

About the Authors:

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19. Wis. Stat. § 66.0101(2)(a).
 20. Wis. Stat. § 66.0101(5).
 21. Wis. Stat. § 66.0101(7).
 22. Wis. Stat. § 66.0101(3).



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- The employee works as a computer systems analyst, programmer, software engineer or in a similarly-skilled position, and the employee’s primary duty includes:
 - the application of systems analysis techniques and procedures;
 - the design, development, documentation, analysis, creation, testing or modification of computer systems or programs;
 - the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 - a combination of the foregoing.

Weekly salary requirement:

The weekly salary required for the exemptions outlined above must be paid on a “salaried basis,” meaning the employee receives the same amount from week to week, regardless of the employee’s actual work hours or quality of work. If deductions are made from an exempt employee’s pay based on the number of hours worked in a week, then that employee is not being paid on a salaried basis and is not exempt from overtime.

There are certain deductions that can be made from an exempt employee’s pay without jeopardizing the exempt status. These include:

- absences of one full day or more for personal reasons other than sickness or disability;
- absences of one full day or more due to sickness or disability if the deduction is made in accordance with a sick leave policy;
 - A public employer may avoid this general rule **under certain conditions** if it has a pay system that includes salary deductions for absences of less than a day for personal leave and sick leave.⁴
- the offset of jury or witness fees, or military pay received by an employee;
- penalties imposed in good faith for infractions of safety rules of major significance;
- unpaid disciplinary suspensions of one full day or more imposed in good faith for workplace conduct infractions; or
- unpaid absences taken under the Family and Medical Leave Act.

The regulations also permit public employers to make deductions from salary due to budget-required furloughs without jeopardizing an exempt employee’s status. In those cases, employers must treat the employee as non-exempt in the workweek in which the furlough occurs.⁵

The weekly salary rate of \$684 (\$35,568 annually) went into effect January 1, 2020, and represents a relatively significant increase over the prior rate of \$455 per week (\$23,660 annually). The Department of Labor estimates that approximately 1.2 million additional workers are now eligible for overtime

under the new salary threshold. Employers who were paying exempt workers at the previous salary level, but less than the new threshold, must increase those workers’ pay to the new required rate to preserve their exempt status, or must reclassify those employees as non-exempt.

Conclusion

Note that job titles do not determine exempt status, and employers cannot designate an employee as exempt unless each of the required elements are met. Exemptions are very narrowly construed by the courts and by the Department of Labor. This article has provided only a very high level overview; the actual analysis of a position’s exempt status can be complex and very detailed, and there are specific definitions attached to many of the terms used in the exemption criteria.

Misclassification of employees as exempt from overtime can be an expensive mistake, exposing the organization to liability for back pay, interest, penalties, and attorney’s fees associated with claims by current or former employees for lost overtime. The FLSA allows damages to be recouped retroactively for a two-year period (three years for willful violations), an award of back pay is doubled as liquidated damages, and the employer must pay the winning employees’ attorney’s fees. Employment practices liability insurance (EPLI) may not cover wage and hour claims. Organizations should consult employment counsel for assistance in making appropriate determinations of exempt status.

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4. The list of conditions for this exception are outlined in 29 C.F.R. § 541.710(a) (2019).
 5. 29 C.F.R. § 541.710(b) (2019).



Preparation and Techniques to Avoid Meeting Chaos

Daniel Foth, JD, Local Government Specialist, Local Government Center, UW-Madison, Division of Extension

December’s article reviewed the importance of establishing meeting rules and the chair’s (mayor/village president) role to “preside” over a council/board (the body) meeting. This month the focus is on how a chair can use a two-step process to effectively “preside” over a meeting. Step One is pre-meeting preparation and Step Two is practical steps to deal with common meeting issues.

Step One - Pre-meeting Preparation

Before each meeting, a chair should understand each agenda item. S/he might also consider how body members may address an issue and interact with the other body members (and staff), thus influencing the body’s meeting discussions.

Pre-meeting preparation can help the chair anticipate how each member might react to various agenda items. One technique a chair can use for pre-meeting preparation is the Topic, Outcome, Process (TOP)¹ approach. TOP was initially developed for use by facilitators. A facilitator creates safe environments where people can identify and solve problems, plan together, make collaborative decisions, resolve their own conflicts, and self-manage as responsible adults. In attending facilitation training, I was struck by how similar the chair’s

Agenda Topic Discussion item	Outcome What are the desired results?	Process How to engage all members to reach the outcome?	Time Anticipated time needed (In minutes)
Previous Minutes	<ul style="list-style-type: none"> • Receive any corrections, discuss as needed and then approval 	<ul style="list-style-type: none"> • Ask for revisions • Approve by motion 	3
Road Construction Contract Approval	<ul style="list-style-type: none"> • Hear Public Works Committee recommendation • Understand the change • What are the collective impacts, benefits, and concerns? • Decide 	<ul style="list-style-type: none"> • Staff presentation • Are there impacts for area businesses? • Are there community-wide issues? • Other • Board discussion • Decision 	15
Building Purchase approval	<ul style="list-style-type: none"> • Hear staff recommendation • Understand the need for purchase, benefits, and concerns • Decide 	<ul style="list-style-type: none"> • Staff presentation • Other? • Board discussion • Decision 	20

role is to that of a facilitator. I see TOP as a useful tool to assist a chair in thinking about the meeting and considering how members may react to each agenda item. The table (above) is for the chair’s use only, strictly as her/his tool to keep the meeting on time and track. Illustrated above is an example of how to use the TOP tool. A chair may adapt this tool as best fits her/his needs.

Step 2 - Practical Steps to Deal with Common Meeting Issues

This month, we will cover two of the common meeting rules and decorum issues that typically occur.

Member(s) Do Not Understand the Meeting and Decorum Rules

The chair should see that each member (especially new members) has a copy of the body’s meeting and decorum rules (rules) and has read the rules to know their role. This approach should help the chair maintain order by reminding the member(s) about the body’s rules. For the first meeting of the body, a chair may wish to review these rules to begin the first meeting when there are newly elected officials. Similarly, a chair can use this approach before a discussion of a potentially contentious item. Doing so

should help remind the members and the audience of the expected behaviors.

Motion Discussion - Keeping Track of Who Gets to Speak and When

The chair controls the discussion. To assist the chair, one commentator offers: “I instruct the members that if they wish to speak, please raise their hand and make direct eye contact with me to ensure that I have written down their name. I write the names down in the order they seek recognition. Then I go down the list and call on people.”² A chair could also use a preprinted list, noting each body member. Some municipalities use electronic boards that assist the chair in keeping track of member speaking requests and voting.

Roberts Rules of Order Newly Revised, *In Brief*, 2nd ed. (RONR *In Brief*) suggests that the motion maker usually speaks first. Then the chair should alternate, as possible, between those for and against the motion. For example, the chair would ask:

“Does anyone wish to speak in favor of the motion?” Once that person has spoken, then ask, “Does anyone wish to speak who is against the motion?” Then continue alternating until everyone who wishes to speak has been able to do so. Also, the chair should recognize someone who hasn’t yet participated, before recognizing someone who has already spoken (RONR *In Brief* p. 30).

Under RONR, each member may speak to a motion two times for no more than 10 minutes each (RONR pp.387-90). A body may wish to consider a local rule that creates a shorter total limit. Further, for a specific meeting or topic, the chair or a member can ask the body to set or waive a speaking time limit by special rule or agreement to waive the rules. Remember, to do either requires unanimous consent or, if voting, two-thirds majority. (RONR p. 390).

Remember that the chair is responsible for enforcing the time limit(s). The

chair may want to appoint a timekeeper (clerk or similar person) to help track a member’s discussion time. Doing so helps maintain order and provides visible fairness by ensuring everyone gets the same speaking time.³

I will address additional meeting rules and decorum issues in February’s “For the Good of the Order.”

Sources:

Roberts Rules of Order, Newly Revised, 11th Ed.

Roberts Rules of Order, Newly Revised, *In Brief*, 2nd Ed.

About the Author:

Daniel has worked with local, regional, state, and federal government and nonprofit entities for his entire 40+ year career in the areas of infrastructure, operation, and governance.

Share your meeting rule/parliamentary procedure suggestions or questions. Email Daniel at daniel.foth@wisc.edu

1. Adapted from Kaner, *Facilitator’s Guide to Participatory Decision-Making*, 2011 and adapted by Germann Consulting, 2014.
 2. Nancy Sylvester, “Control the debate, control the meeting.” American Bar Association, Leadership Institute, Summer 2011.
 3. Adapted from Roger Schwarz, “Five Ways Meetings Get Off Track and How to Prevent Each One.” Harvard Business Review, May 5, 2016.

Legal Captions

Employees 356

HR Matters column by Lisa Bergersen discusses various aspects of lawful hiring practices including: equal employment opportunity laws, the Wisconsin Fair Employment Act, and prohibited discrimination against protected classes. (Published in the December 2019 *The Municipality*.)

Employees 357

HR Matters column by Lisa Bergersen details required factors for employees to come within white collar/ executive, administrative, professional (EAP) exemptions from Fair Labor Standards Act’s overtime requirements, including salary thresholds and duties requirements.

Elections 608

Legal comment answers common election-related questions: whether persons can run for more than one local office at the same election; which municipal offices are filled by election; what are standard terms of office for elected municipal officials and how can terms be changed; when referenda are binding or advisory; what are charter ordinances; and what is a village caucus.

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Public Records FAQ7

How long does an authority/records custodian have to answer a request for public records?

The public records law provides that an authority must either fulfill a public records request or notify the requester of the authority's determination to deny the request in whole or in part and provide the reasons therefor "as soon as practicable and without delay." Wis. Stat. § 19.35(4)(a). The statutes do not define "as soon as practicable and without delay" with a specific timeframe. However, the Wisconsin Department of Justice ("DOJ") *Public Records Law Compliance Guide* provides some guidance on what may constitute a reasonable response time: "DOJ policy is that 10 working days generally is a reasonable time for responding to a simple request for a limited number of easily identifiable records. For requests that are broader in scope, or that require location, review, or redaction of many documents, a reasonable time for responding may be longer... What constitutes a reasonable time for a response to any specific request depends on the nature of the request, the staff and other resources available to the authority to process the request, the extent of the request, and related considerations." Department of Justice

Public Records Law Compliance Guide, p. 15 (October 2019). (rev. 11/19)

Parliamentary Procedure FAQ4

Who controls the agenda of a governing body meeting?

Although state law does not require using agendas, many governmental bodies use them. Agendas are commonly published to satisfy the public notice requirements of the Wisconsin Open Meetings Law. They also serve important practical purposes by providing a structure that facilitates efficient and effective use of meeting time and curtails unproductive distractions by individual members of an assembly.

State law does not specifically vest agenda control in city councils and village boards. However, city councils and village boards are generally empowered to establish their meeting rules. See Wis. Stat. §§ 62.11(3)(e) and 61.34(1). This meeting rule authority includes the power to develop and enact agenda rules.

Outside of limited authority as presiding officers to deny a proposed agenda item for noncompliance with an Open Meetings Law requirement (e.g., timing), mayors and village presidents are not vested with any agenda control power by any state law or even Roberts Rules of Order Newly Revised (11th ed.). See Governing Bodies 391R1. Accordingly, mayors and village presidents do not have general subject matter control over city council or village board agendas or unilateral authority to make agenda rules.

Because agendas are not required by any state law, city councils and village boards are not required to exercise their agenda control authority and establish agenda rules. However, if they choose to exercise their agenda control authority and create agenda rules, the rules must comply with all other applicable law including legal principles that prohibit delegating legislative power, which would prohibit

agenda rules that give mayors or village presidents subject matter control over city council or village board agendas. See Governing Bodies 391R1. (rev. 11/19)

Parliamentary Procedure FAQ7

Can a member of a governmental body running for an office or position of the body vote for himself or herself?

Under Robert's Rules, the answer is probably yes. However, whether such a vote is permitted under the state ethics code depends on the specific facts involved.

Roberts Rules of Order Newly Revised (11th ed.) states the following regarding a member voting for himself or herself:

The rule on abstaining from voting on a question of direct personal interest does not mean that a member should not vote for himself [or herself] for an office or other position to which members generally are eligible, or should not vote when other members are included with him [or her] in a motion.

Roberts Rules of Order Newly Revised (11th ed.), p. 407-08, ll. 34-36 and ll.1-2. Thus, a member of a governmental body that follows Roberts Rules of Order and has not modified this provision of the rules is entitled to vote for himself or herself for an office or other position of the body.

However, whether such a vote is permitted under the state ethics code applicable to local officials depends on the specific facts. Wisconsin Stat. § 19.59(1)(c) prohibits local officials from taking any official action substantially affecting a matter in which the official has a substantial financial interest or from using their office in a way that produces or assists in the production of a direct or indirect substantial benefit. (rev. 11/19)

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2020 League Workshops, Institutes, and Conferences

EVENT	DATES	LOCATION	LODGING	REGISTRATION FEE
Building Inspectors Institute	April 15-17	Delavan	Lake Lawn Resort 262-728-7950 \$82 Single/ double ID: WI Bldg Insp. Inst.	\$205 Member \$230 Non-Member
Local Government 101	May 8	Pewaukee	Holiday Inn Pewaukee - West 262-506-6300 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
Local Government 101	May 15	Eau Claire	Lismore Hotel Eau Claire 715-835-8888 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
Local Government 101	May 29	Oshkosh	Best Western Premier Waterfront 920-230-1900 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
Local Government 101	June 5	Madison	Crowne Plaza Hotel Madison 608-244-4703 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
Clerks, Treasurers & Finance Officers Institute	June 10-12	Oshkosh	Best Western Premier Waterfront 920-230-1900 \$82/single double ID: Clerks, Treasurers, Finance Officers	\$135 Member \$160 Non-Member
Municipal Attorneys Institute	June 17-19	Sturgeon Bay	Stone Harbor Resort 877-746-0700 \$135 single/double ID: League of WI Muni Attorneys Institute	\$295 Member \$320 Non-Member
Local Government 101	June 26	Oconto Falls	City of Oconto Falls Administration Building Usually does not require overnight stay	\$100 Member \$125 Non-Member
Chief Executives Workshop	August 19-21	Wausau	City Grill at Jefferson St. Inn 866-855-6500 \$128 single/double ID-Chief Execs Workshop	\$200 Member \$225 Non-Member
Local Government 101	September 11	Waupaca	Par 4 Resort 715-256-9000 Usually does not require overnight stay but small block is available	\$100 Member \$125 Non-Member
Municipal Assessors Institute	September 15-17	Stevens Point	Holiday Inn Hotel & Convention Center 715-344-0200 \$82 single/\$109 double ID: Municipal Assessors Institute	\$190 Member \$215 Non-Member
Plumbing Inspectors Institute	September 23-25 *Date may change	Eau Claire	Lismore 715-835-8888 \$82 single/double ID: League of WI Muni's - Plumbing Insp Institute	\$165 Member \$190 Non-Member
Annual Conference and Engineering & Public Works Institute*	October 7-9	La Crosse	Radisson 608-784-6680 \$119 single/\$129 double ID: League of WI Municipalities Several overflow hotels. See website*	\$270 Member \$295 Non-Member
Police & Fire Commission Workshop	TBD	TBD	1-day workshop Usually does not require overnight stay but small block is available	\$130 Member \$155 Non-Member

* Room blocks open July 1, 2020

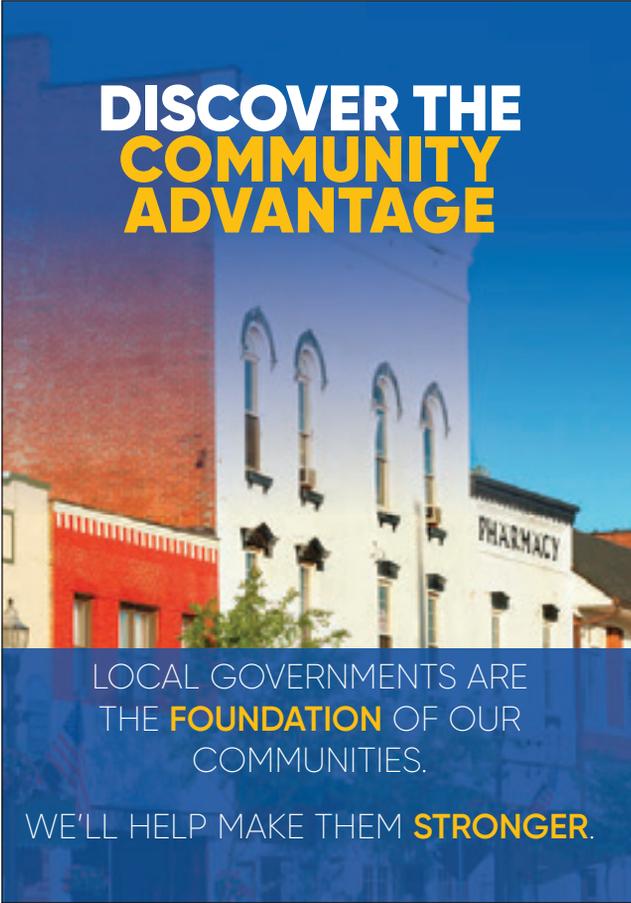
CONDOLENCES



Marshfield. The first female League of Wisconsin Municipalities Board President Marilyn Hardacre died in November 2019. Elected to the Marshfield Council in 1975, she was the first woman council member to serve the city since 1925. In 1978, Hardacre was elected as Marshfield’s first female mayor. She held the seat for four terms.

Mayor Hardacre served as the League’s President in 1984, a year the League faced many of the same challenges we face today. In her Presidential Address to the League’s 86th Annual Conference, Mayor Hardacre noted the January 1 launch of the League of Wisconsin Municipalities Mutual Insurance program, the retirement of long-time League Executive Director Ed Johnson and the hiring of new staff and she talked about the “numerous significant legislative developments and debates on the future of state and local relations.” She went on to say “Unfortunately I must state that it has not been a great year for local governments and property taxpayers, which I view to be synonymous.”

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Deputy Clerk/Treasurer: Jackson - Darlene Smith
Random Lake - Lisa Gillette

Village Administrator: Twin Lakes - Laura Roesslein

Fire Chief: Oak Creek - Michael Kressuk, Jr.

CONGRATULATIONS

New Richmond. Received a WI Department of Natural Resources 2019 Recycling Excellence Award in the “Overall Program” category. The annual award acknowledges outstanding recycling and waste diversion efforts around the state. To learn more about the winners, visit: <https://dnr.wi.gov/topic/recycling/Awards.html>

RETIREMENT



Baraboo. Ed Geick retired in December 2019 after 15 years of unselfish dedication as City Administrator. On his watch, the City matured and prospered. Ed hired most of the Department Heads and other key personnel with a goal of creating a team, rather than individual department silos. He influenced the city’s riverfront redevelopment and initiated the discussion on including portions of the riverwalk into the Ice Age Trail. Ed worked hard to get the new Municipal/Police building constructed. He was also involved in several projects with the University of Wisconsin-Platteville, Baraboo Sauk County Campus.

In addition, Ed was an active member of the Wisconsin City Managers Association and a board member of the Baraboo Public Arts Association.

We congratulate Ed on his well-earned retirement!

CONDOLENCES

Chilton. Director of Public Works Todd Schwarz passed away in October 2019. On St. Patrick’s Day, 1976, Todd began his storied career working for the beautiful city of Chilton where he worked with each and every committee. With his signature blue hat, Todd enjoyed the challenge of his career and loved everything and everyone who made Chilton excellent.

Madison & Park Falls. Judy Plaenert Olson passed away in November 2019. She served for 10 years on the Madison City Council, including two years as the City Council President. While on the Council, Judy served on the Board of Estimates, Transportation Commission, Civic Center Commission, Common Council Organizational Committee, Madison Development Corporation Board of Directors, Quality and Productivity Steering Committee, Land Use Policy Task Force, and Senior Citizen Advisory Committee. Judy also served as Director of Economic Development and Planning for the City of Park Falls, from 1992-1997 and as a senior Aide to Mayor Susan Bauman from 1997-2003.



Niagara. Larry Kuchinski, long-time council member and council president since 1997, passed away in November 2019. Larry worked actively with the city’s Public Works Department, and was involved in the planning of many major projects. He was a proud advocate of both the city residents as well as the employees. Larry was well-known and respected throughout the community for his numerous volunteer services. Larry had many hobbies, including hunting, fishing, and especially golf. However, his

greatest passion was his family. Larry is survived by his wife, Helen, and their four children, 11 grandchildren, and six great-grandchildren.

Have an update?

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