



AGENDA  
HEALTH AND HUMAN SERVICES COMMITTEE  
HUMAN SERVICES BOARD  
REGULAR MEETING  
**TUESDAY, JULY 26, 2022 – 8:00 AM**  
**LASATA CARE CENTER - BOARD ROOM**  
W67 N677 WAUWATOSA ROAD, CEDARBURG, WI 53012

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*The public can access the meeting by viewing the live stream at the link which will be opened five minutes before the call to order:*

[Health & Human Services Committee / Human Services Board Live Stream](#)

*The public can submit comments here:* [Public Comment Form](#)  
[Public Comment Policy & Instructions For Submitting Public Comments Online](#)

**1. CALL TO ORDER**

Roll Call

**2. PROPER NOTICE**

**3. PUBLIC COMMENTS/CORRESPONDENCE/COMMUNICATIONS**

**4. DISCUSSION ITEM:**

- a. Review of Open Meetings Law and Committee Responsibilities per Ozaukee County Policy and Procedure Manual – *Rhonda Gorden, Corporation Counsel*

**5. APPROVAL OF MINUTES**

- a. May 24 & July 6, 2022

**6. LASATA CAMPUS**

**a. Discussion Items:**

- 1. Senior Living Industry Update - *Michael Peer, Clifton Larson Allen*

**b. Management/Financial/Informational Reports**

- 1. Lasata Campus Reports

**7. VETERANS SERVICES OFFICE**

**a. Management/Financial/Informational Reports**

- 1. Veterans Services Report

**8. PUBLIC HEALTH**

**a. Management/Financial/ Informational Reports**

- 1. Public Health Report

**9. HUMAN SERVICES**

**a. Discussion Item:**

- 1. Adult Protective Services Presentation- *Kay-Ella Dee, Aging & Disability Services Manager*

**b. Action Items:**

- 1. Resolution: Amending Section 3.01(6) of the Ozaukee County Policy and Procedure Manual – Positions & Pay Grades: Human Services Social Worker II Position

**c. Management/Financial/Informational Reports**

- 1. HS/Aging/ADRC Financial Report

**10. NEXT MEETING DATE**

August 23, 2022

**11. DEPART FOR TOUR OF LASATA SENIOR LIVING CAMPUS**

**12. ADJOURNMENT**

A quorum of members of committees or the full County Board of Ozaukee County may be in attendance at this meeting for purposes related to committee or board duties, however, no formal action will be taken by these committees or the board at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the County Clerk's Office at 262-284-8110, twenty-four (24) hours in advance of the meeting.

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## Health and Human Services Committee

### AGENDA INFORMATION SHEET

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**AGENDA DATE:** July 26, 2022  
**DEPARTMENT:** County Clerk  
**DIRECTOR:** Julie Winkelhorst  
**PREPARER:** Julie Winkelhorst

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**Agenda Summary** Review of Open Meetings Law and Committee Responsibilities per Ozaukee County Policy and Procedure Manual

#### **ATTACHMENTS:**

- HealthHumanServicesCommittee & HSBoard (PDF)
- Fact-Sheet-1\_-Open-Meetings-Law (PDF)
- ethFAQ3-08 (PDF)

## 2.03 STANDING COMMITTEES OF THE COUNTY BOARD

### (1) General Powers and Duties:

- (a) Oversight of County Departments: Oversight shall include but is not limited to the following:
  - 1. Interview up to three candidates suggested by the County Administrator for appointment to the position of Director, Department Head, Administrator, and/or Commissioner of the County Departments within their oversight. The Standing Committee shall recommend an appointee to the full County Board for confirmation within the salary guidelines set by the Finance Committee
  - 2. Monthly review of a department-wide budget summary for each of the County Departments within the Committee's oversight highlighting variances from the adopted budget
  - 3. Direct and guide policy and enforce accountability of the Departments within their oversight
  - 4. Approve all action items including but not limited to:
    - a. Departmental budgets
    - b. Departmental policies and procedures
    - c. Staffing levels and hours
    - d. New positions
    - e. Capital purchases greater than \$5,000
    - f. Fund transfers of \$10,000 or more and any transfer involving funds budgeted for conferences and meetings
    - g. Grant applications and acceptances
    - h. Review departmental fee schedules
    - i. Departmental name changes
  - 5. Authorize, review, and approve intergovernmental agreements and contracts as necessary or as otherwise authorized by law:
- (b) Establish Ad Hoc and/or Study Groups: in keeping with the purposes and objectives of the Committee, to analyze committee policies or issues, and to encourage community involvement
- (c) Setting Agendas:
  - 1. The Committee Chairperson and County Administrator shall set the agendas of the Standing Committees in consultation with Constitutional Officers of the County and Department Heads within their oversight
  - 2. The Office of the County Clerk shall administer the agendas and minutes for all standing Committees
- (d) Standing Committees shall oversee all public work within their departmental oversight, including any contract for the construction, repair, remodeling or improvement of any public work or building
  - 1. Public notices or bids for all public work shall be released and published per Sec. 59.52(29)(a), Wis. Stats.
  - 2. Approve all contracts and change orders:

- a. Change orders up to \$5,000 require the approval of the Public Works Director.
- b. Emergency change orders up to \$25,000 may be approved by the Public Works Director after consultation with Committee Chairperson and County Administrator and the appropriate Department Head.
- c. Change orders over \$25,000 require approval of the Standing Committee.
- d. All change orders must be reported to the Standing Committee at the meeting following their approval.

**(4) Health and Human Services Committee:**

**(a) Serve as the oversight Committee for:**

- 1. Human Services, Aging Services, and Aging Disability Resource Center
- 2. Lasata Senior Living Campus
- 3. Public Health Department
- 4. Veterans Services Department

**(b) Public Health Functions:**

- 1. Provide the services of at least a Level 1 health department per Sec. 251.05(1),(a), Wis. Stats.
- 2. Oversee the operations of the Public Health Department per Sec. 251.05(3), Wis. Stats.
- 3. Coordinate or arrange for environmental health needs for the County per Sec. 254.015, Wis. Stats.
- 4. Provide Maternal Child Health services per Sec. 253.02, Wis. Stats.
- 5. Negotiate and execute such contracts for the provision or securing of resources as may be necessary to the development or maintenance of services

**(c) Human Services Functions:**

- 1. Operate under Sec. 46.23, Wis. Stats.
- 2. Adopt as its own the approved plans and budgets of department activities, which have been approved or accepted by the Wisconsin Department of Health and Family Services
- 3. Review and approve a plan for the provision of Human Services per Sec. 46.23(3am), State Statutes
- 4. Approve the recommendations of the Human Services Director and Health and Human Services Board for the provision of services per Sec. 46.23(6m), State Statutes regarding the following programs and services:
  - a. Energy Assistance per Sec. 16.27, Wis. Stats.
  - b. The Long-term Support and Community Options Program per Sec. 46.27, Wis. Stats.
  - c. The Community Integration Program per Sec. 46.275, Wis. Stats.
  - d. The Family Support Program per Sec. 46.985, Wis. Stats.
  - e. Child Abuse and Neglect per Sec. 46.51, 48.02, and 48.981, Wis. Stats.
  - f. Juvenile Justice per Sec. 48.08 and 938.08, Wis. Stats.

- g. Child Welfare per Sec. 48.57, Wis. Stats.
- h. Foster Care and Foster Care Aids per Sec. 48.67 and 46.261, Wis. Stats.
- i. Community Youth and Family Aids per Sec. 48.985(3), Wis. Stats.
- j. Public Assistance Programming per Chapter 49, Wis. Stats.
- k. Wisconsin Works per Sec. 49.141, Wis. Stats.
- l. Alcohol and Other Drugs and Community Support Program per Chapter 51, Wis. Stats.
- m. Mental Health Block Grant per Sec. 51.02(1),(b), Wis. Stats.
- n. Developmental Disability services and programming per Sec. 51.437, Wis. Stats.
- o. Birth to Three Program
- p. Collaborative and cooperative services with public health and other groups for programs of prevention, evaluation and diagnostic services
- q. Intoxicated Driver Program
- r. Safe and Stable Families Program
- s. Inpatient and outpatient care and treatment, residential facilities, partial hospitalization, pre-care, aftercare, emergency care, rehabilitation services and supportive transitional services
- t. Other programs, services, and grants administered by the Human Services Department
- u. Review and approve the Commission on Aging/Aging Disability Resource Center Board recommended County aging plan for programs for older people
- v. Oversee the operation of the Lasata Senior Living Campus
- 5. Serve as liaison to the County Board, for Health and Human Services Board per Sec. 46.23(5m), Wis. Stats.
- 6. Serve as liaison to the County Board for, Commission/Aging and Aging Disability Resource Center Board per Sec. 46.82, Wis. Stats.
- 7. Serve as liaison to the County Board for, Veteran's Commission per Sec. 45.12, Wis. Stats.

**(7) Term Limits**

**(a) Supervisor Term Limits on Standing Committees**

- 1. No County Board Supervisor shall serve more than four (4) consecutive terms on a Standing Committee.
- 2. Only full two-year terms shall be counted for the purposes of calculating term limits.
- 3. The calculation of Standing Committee term limits shall be calculated retroactively to the creation of the current committees per the County Board Reorganization implemented on April 6, 2005.

**(b) Term Limits on Standing Committee Chairpersons**

- 1. No County Board Supervisor shall serve more than three (3) consecutive terms as the Chairperson of a Standing Committee.
- 2. Only full two-year terms shall be counted for the purposes of calculating term limits.

- (8) Virtual Attendance at Standing Committee Meetings.
- (a) The Committee Chairperson may allow County Board Supervisors to attend standing committee meetings by teleconference when necessary to obtain quorum.
- (b) Access to Standing Committee Meetings.
  - 1. When permission to attend a standing committee meeting by teleconference is granted, a phone number and unique access code will be provided to the County Board Supervisors attending telephonically.
  - 2. The information will be provided via email to County Board Supervisors through their County Board email address.
  - 3. County Board Supervisors shall connect to teleconferences five minutes prior to the start time of the standing committee meetings to ensure access.
  - 4. County Board Supervisors shall enter standing committee meetings on mute and unmute when addressing the committee to lessen disruptions.

## 2.05 BOARDS AND COMMISSIONS

### (4) Human Services Board:

- (a) Composition: The Human Services Board shall be composed of eight persons of recognized ability and demonstrated interest in human services.
  - 1. Five members shall be the County Board members comprising the Health and Human Services Committee.
  - 2. One member shall be an individual who receives, or has received, human services or shall be a family member of such an individual per s. 46.23(4)(a)1., Wis. Stats.
  - 3. Two members shall be either consumers of services or citizens-at-large per s. 46.23(4)(a)1., Wis. Stats.
  - 4. Members of the Human Services Board shall serve for terms of three years, so arranged that as nearly as practicable, the terms of one-third of the members shall expire each year per s. 46.23(4)(c), Wis. Stats.
- (b) Powers and Duties:
  - 1. Appoint committees consisting of county residents to advise the Human Services Board as it deems necessary per s. 46.23(5m)(a), Wis. Stats.
  - 2. Recommend program priorities and policies, identify unmet service needs and prepare short-term and long-term plans and budgets for meeting such priorities and needs per s. 46.23(5m)(b), Wis. Stats.
  - 3. Prepare, with the assistance of the Human Services Director, a proposed budget for submission to the County Administrator, a final budget for submission to the Department of Health Services in accordance with s. 46.031(1) for authorized services, except services under ch. 48 and subch. III of ch. 49, Wis. Stats., and juvenile delinquency-related services, a final budget for submission to the Department of Children and Families in accordance with s. 49.325 for authorized services under ch. 48 and subch. III of ch. 49, and a final budget for submission to the Department of Corrections in accordance with s.

301.031 for authorized juvenile delinquency-related services per s. 46.23(5m)(c), Wis. Stats.

4. Advise the Human Services Director regarding purchasing and providing services and the selection of purchase of service vendors, and make recommendations to the County Administrator regarding modifications in such purchasing, providing, and selection per s. 46.23(5m)(d), Wis. Stats.
  5. Develop Human Services Board operating procedures per s. 46.23(5m)(e), Wis. Stats.
  6. Comply with state requirements per s. 46.23(5m)(f), Wis. Stats.
  7. Assist in arranging cooperative working agreements with persons providing health, education, vocational or welfare services related to services provided under this section per s. 46.23(5m)(g), Wis. Stats.
- (c) Reporting: The Human Services Board shall report to the Health and Human Services Committee of the County Board

## 2.04 COMMITTEE GENERAL PROCEDURES

### (1) Parliamentary Procedure:

- (a) Except as modified by the following rules, the rules of the parliamentary practice in Robert's Rules of Order Newly Revised shall govern in all cases where they are applicable.
  - (b) The Statutory Boards and Commissions shall select their own Chairperson and Vice-Chair-person by election.
  - (c) No county employee, either full-time or part-time, may serve as a Committee, Board, or Commission, Chairperson or Vice-Chairperson that has any type of oversight responsibility involving that employee.
  - (d) [Section 2.01\(4\)\(j\)2.b.](#) of this manual shall apply to attendance of County Board and citizen members at meetings of Standing Committees except when permission is granted to County Board Supervisors to attend by teleconference pursuant to the provision in Section 2.03(8)(a) of this manual.
- ### (2) Quorum:
- (a) A quorum is defined as a majority of the authorized number of Committee members. All standing Committees shall consist of five Board members. The Natural Resources Committee shall also contain a Farm Service Agency representative for agricultural soil and water conservation related issues only.
  - (b) If any of the members of the Committee are not in attendance then any member of the Executive Committee or the Chairperson's designee may act as members of the Committee.
  - (c) When a majority is not in attendance, all present shall be entitled to their per diem, if applicable, and mileage.
- ### (3) Closed Sessions:
- (a) A meeting of a Committee, upon a motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in Sec. 19.85, Wis. Stats.

1. The motion shall be carried by majority vote in such manner that the vote of each member is ascertained and recorded in the minutes.
  2. No motion to convene in closed session may be adopted unless the Committee Chairperson announces to those present at the meeting at which such motion is made:
    - a. The nature of the business to be considered in such closed session
    - b. The specific exemption or exemptions by which such closed session is claimed to be authorized
    - c. No business may be considered at any closed session except that which relates to matters contained in the Committee Chairperson's announcement of the closed session.
  3. A Committee may not commence a meeting, subsequently convene in closed session, and thereafter reconvene again in open session within 12 (twelve) hours after completion of the closed session unless the agenda for the meeting indicates that the Committee will return to open session at an approximate time to be indicated on the agenda.
    - a. If the agenda indicates that the Committee will return to open session, the motion to reconvene into open session shall be carried by majority vote in such a manner that the vote of each member is ascertained and recorded in the minutes (09-37)
- (4) Public Comment:
- (a) Section 2.01(4)(g)1., 2., 4., 5.a., d., e., and 6. of this manual shall apply to public comment at committee meetings.
  - (b) County Board Supervisors that are non-members of the committee may participate as non-voting members of the committee on any item noticed on the agenda for discussion or action.
- (5) Motions and Voting:
- (a) Any member of a Committee may make a motion.
  - (b) A motion that does not receive a second will be considered lost.
  - (c) All members of the Committee present shall vote on each motion unless excused for a valid reason.
  - (d) The Chairperson must always vote last in order to break a tie vote or to create a tie vote.
  - (e) A tie vote will cause the motion to be lost.
  - (f) A roll call vote will be taken if a Committee member requests such a vote. Such a vote must be taken on a motion to go into closed session.
- (6) Committee Agendas:
- (a) Committee agendas are normally prepared by staff personnel in cooperation with the Committee Chairperson and County Administrator.
  - (b) Any member of a Committee shall have the right to have any particular item placed on the agenda for a specific meeting.
  - (c) Agendas are normally prepared and forwarded to the County Clerk's office one week before a meeting.
  - (d) That office will then post copies and forward copies to the news media to comply with Sec.19.84, Wis. Stats.

- (e) If it becomes necessary to amend an agenda that has previously been distributed, a copy of such revised agenda must be received in the County Clerk's office at least 24 hours before the anticipated start of the meeting.
- (f) A prescribed Committee attendance form must be completed for each meeting and is to be filed in the County Clerk's Office as soon as possible after each meeting.

### REFERENCED ABOVE

#### 2.01 RULES OF THE COUNTY BOARD OF SUPERVISORS

- (4) Meetings
- (g) Public Attendance and Comment at County Board Meetings:
  - 1. A period for public comment will be provided at every meeting. The purpose of public comment is to provide non-County Board members that reside in the County an opportunity to comment on matters over which the County Board has authority.
  - 2. The rules of decorum followed by County Board members apply to non-members in attendance at County Board Meetings. The use of signs is prohibited. Applause or heckling in response to a speaker's remarks and other conduct that disrupts the meeting or is disrespectful of others is prohibited.
  - 4. Public comment is not permitted on personnel matters, matters that have previously been the subject of a public hearing or are the subject of quasi-judicial hearings. Candidates for office may not use public comment for campaign purposes but may introduce themselves and state what office they are seeking.
  - 5. Public Commenters:
    - a. Must be present in person.
    - d. May not speak until they have been recognized by the Chairperson.
    - e. Must verbally state their name and address.
  - 6. The Chairperson may limit comment that is redundant.
- (j) Voting Procedures:
  - 2. Voting:
    - b. County Board Supervisors must be physically present to attend, participate and vote.

#### 2.06 CITIZEN APPOINTEES:

- (1) Non-County Board members, who are non-government employees, approved by vote of the County Board, to serve as members on various Boards, Commissions, Committees, et al, if not otherwise compensated, shall be paid the same sum per day as every grand and petit Juror as stated in (7)(d) whether attending meetings in-person or virtually. All members, including government employees, shall be paid the prevailing Internal Revenue Service mileage reimbursement rate for attending meetings of said Board, Commission or Committee.

- (a) Attend at least seventy (70) percent of the meetings of the Committees, Boards, and Commissions to which they are appointed annually.
- (b) Report to the Ozaukee County Clerk's Office when unable to attend meetings of their appointed Committees, Boards, and Commissions.
- (2) Attendance Policy: Members of the public appointed to represent Ozaukee County on Committees, Boards, and Commissions may be removed from their appointment for:
  - (a) Failure to comply with sections 1 and 2 as stated above.
  - (b) Consecutive absences of more than two (2) meetings.
  - (c) The Executive Committee will consider removal of citizen appointees on a case-by-case basis.
- (3) Compensation for Services & Expenses:
  - (a) Officials and employees (including volunteer drivers for the home-delivered meals program) shall be paid the prevailing Internal Revenue Service mileage reimbursement rate as a travel allowance for the use of privately-owned automobiles in the transaction of official county business.
  - (d) Every grand and petit Juror summoned upon any venire is to be paid the sum of \$25.00 for each half day of actual attendance upon any Circuit Court and mileage pursuant to the provisions of Section 756.25 (1) of the Wisconsin Statutes.



# 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.<sup>1</sup> The law ensures that there is public access and open decision making. Open decision making includes the information gathering stages, discussions, and voting.<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup>

### 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.<sup>5</sup> “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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup>

In addition, the term "governmental body" under the law includes governmental and quasigovernmental corporations, as well as other specified entities.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> 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;<sup>13</sup> (2) the degree of public funding;<sup>14</sup> (3) government access to the entity's records;<sup>15</sup> (4) express or implied representations that the entity is affiliated with government;<sup>16</sup> and (5) the extent government controls the entity's operation, such as appointing directors, officers or employees, or officials serving in those positions.<sup>17</sup>

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.<sup>18</sup>

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.<sup>19</sup>

## "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.<sup>20</sup> 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.<sup>21</sup>

### 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.<sup>22</sup>

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.<sup>23</sup> 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.<sup>24</sup>

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.<sup>25</sup>

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.<sup>26</sup> 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.<sup>27</sup>

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.<sup>28</sup> Accordingly, the facility chosen for a meeting must be sufficient for the number of people reasonably expected to attend.<sup>29</sup>

## 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.<sup>30</sup> Further, separate notices must be given for each meeting.<sup>31</sup>

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.<sup>32</sup>

It is further required that each posting place or publication be "likely to give notice to person's affected."<sup>33</sup> 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.<sup>34</sup>

The Open Meetings Law also requires providing notice to the news media.<sup>35</sup> 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.<sup>36</sup>

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).<sup>37</sup>

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.<sup>38</sup> 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.<sup>39</sup>

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.<sup>40</sup>

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.<sup>41</sup>

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.<sup>42</sup> 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.<sup>43</sup>

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.<sup>44</sup> 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.<sup>45</sup>

## 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.<sup>46</sup> Another general requirement of the Open Meetings Law is that all governmental business shall be conducted in open session.<sup>47</sup> Considering these requirements of the statutes, the exemptions in Wis. Stat. §

19.85 must be construed strictly and narrowly.<sup>48</sup> 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.<sup>49</sup>

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.<sup>50</sup>
- **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.<sup>51</sup> Neither can consideration of action to fill a vacancy on the governmental body or appointments to committees be in closed session.<sup>52</sup>

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.<sup>53</sup>

- **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.<sup>54</sup>
- **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.<sup>55</sup> 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.<sup>56</sup> 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.<sup>57</sup>

If the need arises, the body can go into closed session on an item specified in the public notice.<sup>58</sup> 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.<sup>59</sup>

Only matters for which the session was closed may be considered in closed session.<sup>60</sup> 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.<sup>61</sup> The body has discretion to admit anyone to a closed session that they deem necessary to conduct the business of the closed session.<sup>62</sup>

## 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.<sup>63</sup> (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.<sup>64</sup>

## 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.<sup>65</sup> If the enforcement involves an improper closed session, members who voted against convening in closed session have a defense to the charge.<sup>66</sup>

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.<sup>67</sup> 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

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## Endnotes

- <sup>1</sup> Wis. Stat. § 19.81 (3).
- <sup>2</sup> 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).
- <sup>3</sup> 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.
- <sup>4</sup> Citizens for Responsible Development v. City of Milton, 2007 WI App 114, ¶16.
- <sup>5</sup> Wis. Stat. § 19.82(1).
- <sup>6</sup> 78 Op. Att'y Gen. 67
- <sup>7</sup> Open Meeting Law Compliance Guide, p. 4 - 5 (2018).
- <sup>8</sup> Krueger v. Appleton Area Scholl District, 2017 WI 70, ¶¶24-26.
- <sup>9</sup> Wisconsin Counties, September 2017, p.12; The Municipality, October 2017, p.23 (Governing Bodies 398 & 399).
- <sup>10</sup> Wis. Stat. §19.82(1).
- <sup>11</sup> State v. Beaver Dam Area Development Corp., 2008 WI 90, ¶44.
- <sup>12</sup> Beaver Dam, ¶45.
- <sup>13</sup> Beaver Dam, ¶72.
- <sup>14</sup> Beaver Dam, ¶66.
- <sup>15</sup> Beaver Dam, ¶78.
- <sup>16</sup> Beaver Dam, ¶¶73,74.
- <sup>17</sup> Beaver Dam, ¶75.
- <sup>18</sup> Wis. Prof'l Police Ass'n, Inc. v. Wis. Counties Ass'n, 2014 WI App 106.
- <sup>19</sup> Wis. Stat. §§19.82(1) & 19.86.
- <sup>20</sup> Wis. Stat. §19.82(2).
- <sup>21</sup> See note 2, above.
- <sup>22</sup> This was the situation in the Showers case, above.
- <sup>23</sup> Showers, 135 Wis.2d at 92, 100 (quoting State ex. rel. Lynch v. Conta, 71 Wis.2d 662, 687 (1976)).
- <sup>24</sup> 69 Op. Att'y Gen. 143 (1980).
- <sup>25</sup> Open Meeting Law Compliance Guide, p. 11 (2018).
- <sup>26</sup> Badke, 173 Wis.2d 553, 571.
- <sup>27</sup> July 26, 2016, correspondence from Assistant Attorney General Paul Ferguson to John Bodnar, Winnebago County Corporation Counsel, and Scott Ceman, Winnebago County District Attorney.
- <sup>28</sup> Wis. Stat. § 19.82(3).
- <sup>29</sup> Badke, 173 Wis.2d 553, 580-81.
- <sup>30</sup> Wis. Stat. §§ 19.83 & 19.85.
- <sup>31</sup> Wis. Stat. § 19.84(4).
- <sup>32</sup> Wis. Stat. §19.84(1)(b)1,2 &3(2020)
- <sup>33</sup> 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.
- <sup>34</sup> Open Meeting Law Compliance Guide, p. 14 (2018).
- <sup>35</sup> Wis. Stat. § 19.84(1)(b).
- <sup>36</sup> Wis. Stat. § 19.84(1)(b).
- <sup>37</sup> Wis. Stat. § 19.85(2).
- <sup>38</sup> Wis. Stat. §19.84(2).
- <sup>39</sup> State ex rel Buswell v. Tomah, 2007 WI 71.
- <sup>40</sup> State ex rel Buswell v. Tomah, 2007 WI 71, ¶¶29-31.
- <sup>41</sup> Compliance Guide, p. 17 (2018); AG-Thompson Informal Correspondence, September 3, 2004.; AG-Ericson Informal Correspondence, April 22, 2009.
- <sup>42</sup> Wis. Stat. §19.84(1)(b).
- <sup>43</sup> Wis. Stat. § 19.84(2).
- <sup>44</sup> Wis. Stat. § 19.82(3).
- <sup>45</sup> Wis. Stat. § 19.90.
- <sup>46</sup> Wis. Stat. § 19.81(1) & (4).
- <sup>47</sup> Wis. Stat. §19.83(1).

<sup>48</sup> State ex rel. Hodge v. Town of Turtle Lake, 180 Wis.2d 62, 70 (1993).

<sup>49</sup> See 74 Op. Att'y Gen. 70, 73 (1985).

<sup>50</sup> See Hodge, above.

<sup>51</sup> Oshkosh NW. Co. v. Oshkosh Library Bd., 125 Wis. 2d 480, 486 (Ct. App. 1985).

<sup>52</sup> 76 Op. Att'y Gen 276 (1987) and 74 Op. Att'y Gen 70, 72 (1985).

<sup>53</sup> State ex rel. Schaeve v. Van Lare, 125 Wis. 2d 40, Ct. App. 1985).

<sup>54</sup> State ex rel. Citizens v. City of Milton, 2007 WI App 114, ¶¶.15-14 ¶

<sup>55</sup> Wis. Stat. §§ 19.84(2) & 19.85(1).

<sup>56</sup> Wis. Stat. § 19.85(1).

<sup>57</sup> Wis. Stat. § 19.85(2).

<sup>58</sup> 66 Op. Att'y Gen. 106 (1973).

<sup>59</sup> Open Meeting Law Compliance Guide, p. 29-30 (2018).

<sup>60</sup> Wis. Stat. § 19.85(1).

<sup>61</sup> Wis. Stat. § 19.89).

<sup>62</sup> Informal correspondence to Shuh, December 15, 1988.

<sup>63</sup> Wis. Stat. §§ 19.88 & 985.01(6).

<sup>64</sup> Wis. Stat. §19.88(2).

<sup>65</sup> 66 Op Att'y Gen. 226 (1977).

<sup>66</sup> Wis. Stat. § 19.96.

<sup>67</sup> Wis. Stat. § 19.97(3).



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## **Ethics & Conflicts of Interest—FAQs** (frequently asked questions)

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April 2008*

This paper is directed particularly at local governing body members because they are the primary decision-makers in a local governmental unit and therefore the ones most subject to conflicts. (A “local governmental unit” includes a county, city, village or town, special purpose district or subunit of any of the foregoing. Sec. 19.42(7u), *Wis. Stats.*) Nevertheless, other local officials and employees may face such questions when they make decisions on matters in which they have a personal interest or a close connection with a person or organization with an interest in the matter. The paper is divided into the following headings:

- ◆ Background & General Matters (##1-5)
- ◆ Making Fair Decisions: Developing Policy; Applying the Law (##6-8)
- ◆ Code of Ethics for Local Officials (##9-11)
- ◆ Gifts, Food & Drink, Conferences, Political Contributions, etc. (##12-17)
- ◆ Contracts (##18-20)
- ◆ Compatibility Issues: Conflicts in Holding More than One Local Office or Position & in Job Creation & Selection (##21-24)
- ◆ Other provisions (#25)

### **Background & General Matters**

**1. *What is the purpose of ethics and conflicts of interest laws?*** The purpose of these laws is to prevent self-dealing, undue influence and bias, and to preserve public confidence in local government by avoiding the appearance of impropriety. In general, these laws, with the open meetings and public records laws, while occasionally cumbersome, provide an important part of the foundation for our democratic government.

**2. *Where can I find the laws that apply to ethics and conflicts of interest?*** These laws are found in various locations. First, check your local unit’s ordinances and rules to see what provisions may apply to you. Perhaps the most basic source of ethics is the local official’s oath of office in which he or she swears to “faithfully discharge the duties” of the office; these official duties include the “performance to the best of his or her ability” and the nonperformance of

forbidden acts. Sec. 19.01(1) and (3). The Code of Ethics for Local Government Officials (also referred to as the “Code of Ethics” in this paper) is found in ch. 19, *Wis. Stats.* See statutory sections 19.42 (definitions), 19.58 (criminal penalties) and 19.59 (prohibitions, procedures and civil penalties). Another important statute is sec. 946.13, which prohibits certain private interests of public officers and employees in public contracts. At a more general level, concepts of fairness and due process are covered by court decisions interpreting the Wisconsin and Federal constitutions (see #6). Finally, the “common law” developed by the courts is another source of law (see #7).

**3. *The existence of so many laws is confusing. How can I find answers to my questions?*** As a local official, you should familiarize yourself with any local ordinances or rules you may have and with the statutory Code of Ethics for Local Government Officials. A good place to find information is on the Wisconsin Government Accountability Board (GAB) Ethics Division website <http://ethics.state.wi.us/>. (Note: The GAB now includes the former Elections Board and Ethics Board as divisions; the provisions of the laws affecting local officials remain the same.) Two Ethics Division publications, available on the website, are particularly useful: Eth 219 (Local officials’ receipt of food, drink, favors, services, etc.) and 240 (Mitigating Conflicting Interests: Private Interest vs. Public Responsibility); see also Eth 235 (Disposition and reporting of gifts). The website has a link to the statutory Code of Ethics for Local Government Officials. In addition, the publications of the Wisconsin local government associations include explanatory materials on these topics. Also, the Local Government Center offers a yearly WisLine program on this topic. At the LGC website, <http://lgc.uwex.edu/>, click on the WisLine link for the “Open Government” series. To find any statute on-line, from the LGC website, click on “Web Links,” next on “Internet Resources” and finally on the “Wisconsin Statutes” link to access any statute.

In addition to checking existing information, a local official may wish to obtain advice from an attorney or ethics board. Under the Code of Ethics for Local Officials, an individual may request a confidential advisory ethics opinion from the unit’s ethics board, or if there is none, from the unit’s attorney. Sec. 19.59(5). Following this advice provides the local official with a legal defense if later prosecuted for a violation. The unit’s attorney or local government association may request an advisory opinion from the state GAB’s Ethics Division. Sec. 19.59(6).

**4. *How should ethics and conflicts of interest questions be approached?*** Carefully and ahead of time. It’s a good idea to learn to spot potential conflict situations. You can ask yourself these questions:

--*What is the nature of the decision?* If the decision involves applying the law to specific fact situations affecting individuals, such as an application for or revocation of a permit before a body, or disciplinary actions before a body, more stringent laws apply. See #7, below.

--*Does the matter involve a public contract in which I have a direct or indirect financial interest?* These questions demand careful consideration. See ##18-20.

--*Does the action affect myself, a member of my family, or an organization with which my family member or I are associated?*

--*How would I like to read about my actions on this matter in the newspaper?*

--*Would taking part in an official capacity seem fishy?*

If the answer to any of the last 4 questions is “yes,” you should look into the matter further.

**5. What should I do if I decide to abstain?** It should be understood that abstention goes beyond merely not voting on the matter. You must remove yourself from the decision-making body's table and refrain from involving yourself in any way in discussions or other information exchanges in your *official* capacity. Your abstention or absence should be noted in the record. Also, abstentions should be used only when warranted, rather than to avoid taking part in difficult or controversial matters. However, it should be noted that a member of a local legislative body has a First amendment right to abstain, *Wrzeski v. City of Madison, Wisconsin*, 558 F. Supp. 664 (1983).

### **Making Fair Decisions: Developing Policy; Applying Policy**

**6. The statutes have gaps in their coverage. Are there other limits on my ability to vote on policy or administrative matters?** Yes. The *common law* (i.e., the law developed by the courts) may prohibit a vote by a member of a body, such as a local governing body or board or commission member, even if statutory law does not, on matters such as adopting or amending ordinances, entering into contracts, hiring employees and deciding whether to litigate. The Wisconsin Ethics Board (now GAB Ethics Division) has noted in recent opinions that common law principles may disqualify a member of a body from voting on a matter where the member has a direct pecuniary interest not shared by others similarly situated. See, e.g., *Wis Eth Bd* opinions 2003-09 and 2003-17 (citing *Board of Supervisors of Oconto County v. Hall*, 47 Wis. 208 (1879) and 36 *Op. Att'y Gen.* 45, 46 (1947)). The Ethics Division interprets the Code of Ethics for Local Officials in a similar fashion when local officials who make policy decisions that affect themselves, "immediate family" members or "organizations" with which they are "associated" (as these terms are statutorily defined). In such cases, the official may vote or take action if the interest affects a class of similarly-situated interests, and the impact of the action on the official, family member or organization is not significantly different from the impact on the others affected. See the Ethics Division guidelines in "Eth 240."

In addition, the common law restriction is similarly stated in *Robert's Rules of Order Newly Revised (10<sup>th</sup> Edition)*, sec. 45, which states that, "No member should vote on a question in which he has a direct personal or pecuniary interest not common to other members of the organization." Many communities have adopted *Robert's* to apply in situations not covered by their ordinances or the statutes. See, e.g., *Ballenger v. Door County*, 131 Wis.2d 422, 431 (fn. 6) (Ct. App. 1986).

**7. What limitations apply to my actions when applying the law?** You act in a "quasi-judicial" capacity when you apply the general law (i.e., statutes and ordinances) to specific fact situations. Examples include granting a zoning variance or conditional use permit or revoking an alcohol beverage license. In such cases constitutional law and the common law apply in addition to the statutory ethics and conflicts laws. In quasi-judicial proceedings, you must provide due process (a constitutional concept) and be fair and unbiased. This means that you will have to abstain in more situations than you would have to when making policy, such as voting on an ordinance, or when acting in an administrative capacity, such as in hiring or awarding a contract.

In quasi-judicial proceedings you should consider whether you could be seen as biased regarding either the person or the issue involved, although having opinions on local matters is not improper. For example, while it would be permissible to publicly hold the view that an

ordinance should be amended, it would be improper to disparage the ordinance at a proceeding on an application. Similarly, it is improper to show bias regarding the applicant. In one case, the chair of a zoning board of appeals (BOA) called the applicable standard for a permit a loophole in need of closing and made critical personal comments about the applicant. Not surprisingly, an appeal to court resulted in the matter being returned to the BOA for a new hearing without the participation of the BOA chair. *Marris v. City of Cedarburg*, 176 Wis. 2d 14 (1993). Similarly, in a recent case, the court ruled that a conditional use permit application had to be reheard because of the improper participation on the decision-making body of a member whose letter in support of the applicant was a part of the record. *Keen v. Dane County*, 269 Wis. 2d 488 (Ct. App. 2003). Officials in these proceedings must be careful to base their decisions on the arguments and evidence presented in the record, including the hearing, and should avoid outside sources and contacts, such as discussions with the parties or neighbors outside of the meeting or hearing room.

Violations of these principles of due process and fairness, if challenged in court, may result in having the matter sent back to the body to do over again properly. Enforcement typically does not involve damages or other penalties, although it could in certain egregious situations, involving, for example, deliberate wrongdoing and civil rights violations.

**8. *How does the above reasoning apply when I, as a governing body member, am faced with a vote on a rezoning of property?*** Rezoning is in a grey area of the law. In some states they are treated as quasi-judicial, but in Wisconsin they are viewed as legislative. How you proceed depends upon the nature of the rezoning. Applying the concept (#6 above) of whether you are a member of a class of similarly-affected persons is helpful. So if it's your next-door neighbor who's asking for the rezoning, you should abstain from any official involvement. But if the rezoning is for a major project that affects, for example, the entire area where you live, and you are not affected more than others, it seems legitimate for you to take part in the vote. Close situations like this should be investigated prior to becoming involved in an official capacity.

### **Code of Ethics for Local Officials**

**9. *Briefly, what is prohibited by the Code of Ethics for Local Officials?*** The Code generally prohibits a "local public official" from using his/her office or position to obtain gain for the private benefit of himself/herself, an "immediate family" member or for an "organization" with which the official is "associated" (as these terms are defined in the law; item #10, following). Secs. 19.42 & 19.59, *Wis. Stats.* In addition, a recent provision prohibits a local public official from engaging in "pay to play" political agreements. See #17 below.

The language of sec. 19.59(1) contains the specific, lengthy wording of the prohibitions, which may be categorized as prohibitions on private gain, illegal influence or rewards, and involvement when the local official, a member of the official's immediate family, or an organization with which the official is associated has a substantial interest in the matter (see the following definitions).

**10. *Who is covered by the Code of Ethics for Local Officials?*** The local ethics code applies to local public officials who hold "local public office." Sec. 19.42(7w) and (7x), *Wis. Stats.*

"Local public office" includes: elected officers of a local governmental unit; a county administrator or coordinator, or city or village manager; appointed local officers and employees

who serve for a specified term; and officers and employees appointed by the local governing body or executive or administrative head, who serve at the pleasure of the appointing authority.

“Local public office” *does not* include: independent contractors; persons who perform only ministerial (i.e., non-discretionary) tasks, such as clerical workers; or persons appointed for indefinite terms, who are removable for cause. Finally, the term “local public office” does not include a municipal judge; this office is considered a state office. Sec. 19.42(13)(h).

*Note:* Persons who are appointed for indefinite terms and are removable for cause, such as police officers and firefighters, as well as their chiefs, are omitted from coverage because the definition of “local public office” covers only those appointed officials who serve for a specified term or who serve at the pleasure of the local governing body or executive or administrative head (above). The reason for this omission is not clear. A town, village, city or county, may, however, use a local ethics ordinance to fill gaps in the statute's coverage.

Other key terms in the Code of Ethics for Local Officials are: “immediate family,” “organization” and “associated.” Sec. 19.42(2), (7) and (11). The “**immediate family**” of a local public official means the official’s spouse, and a “relative by marriage, lineal descent or adoption” who receives from the official or provides to the official more than one-half of his or her support. Note that, with the exception of a spouse, the coverage of the term is based on a support test. An official’s parent or child, for example, is not covered unless the support test is met.

**“Organization”** is broadly defined to cover “any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or other legal entity other than an individual or body politic.” Note that nonprofits are included and governmental units are excluded. Finally, **“associated,”** in reference to an organization, refers to the situation in which the public official or a member of his or her immediate family is a director, officer, trustee, authorized representative or agent of the organization; or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity of the organization. Note that employees as such are not covered.

**11. *Must a local governmental unit adopt an ethics ordinance and establish its own ethics board? How are ethics laws enforced?*** Having a local ethics ordinance and establishing a local ethics board are optional. A local unit might wish to have its own ordinance to fill in some gaps in the law and have local enforcement. Sec. 19.59(1m)-(3). (If an ordinance is established, the ordinance is enforced by the unit’s attorney rather than by the district attorney.) Similarly, a unit might wish to establish an ethics board to provide guidance on ethics matters. Sec. 19.59(3)(d). Neither is required. However, the Code of Ethics for Local Government Officials, in subch. III of ch. 19, *Wis. Stats.*, applies to all “local public officials” (as defined). Enforcement of this state law is by the district attorney, as is enforcement of the law concerning private interests in public contracts (##18-20, below). Civil remedies, including forfeitures and injunctions, and criminal penalties may apply. Secs. 19.58 and 19.59(7)-(8).

## **Gifts, Food & Drink, Conferences, Political Contributions, etc.**

**12. *May I accept gifts? What limits exist regarding the acceptance of gifts?*** You may not accept a gift given to you because you are a public official, unless it is of insubstantial value. This means that you may, of course, receive gifts from friends and relatives who make the gifts for personal reasons, unrelated to seeking your favor as a public official. As a public official, it is best to politely refuse gifts and explain the policy in not accepting them. If the item cannot be returned to the donor the Wisconsin Ethics Division suggests turning the item over to the governmental unit, another public institution, or a charitable organization (other than one with which you or an immediate family member are associated). See Eth 235 (Disposition and reporting of gifts.) Gifts with an insubstantial value may be accepted, although it is always safest not to. So a small desk calendar or inexpensive pen with a logo, for example, may be accepted. The statutes do not define the terms “insubstantial value” or “substantial value.” Your local unit may do so by ordinance.

**13. *What about accepting a meal from a contractor who does business with our local unit?*** You should not accept such free meals. If the meal is for public business, you should pay for it yourself and seek reimbursement from your local governmental unit, preferably subject to pre-established guidelines on expense reimbursement.

**14. *How about accepting refreshments and entertainment at a conference?*** If you are attending the conference in your capacity as a local government official, you may accept such items if they are part of the conference and approved by the conference sponsor. So if you attend, say, the annual conference given by your statewide local government association you may certainly accept free refreshments supplied by vendors at the conference and attend entertainment provided at the conference. However, it is not proper to accept refreshments or entertainment or gifts at hospitality suites that are offered to you as a local official but are not an approved part of the conference.

**15. *Are there limits on accepting transportation and services?*** Yes, the Code of Ethics prohibits receiving services, of more than nominal value, that are offered to you because of your public office. Also, you may not, under a felony statute, accept free or discounted transportation, traveling accommodation or communication services for which the supplier would normally charge. Sec. 946.11, *Wis. Stats.*

**16. *Do considerations of public benefit outweigh those of private benefit in some cases?*** Perhaps, but be careful. When you get reimbursement for a meal during which you were on public business, you obviously received a private benefit, but your local governmental unit has decided that it is a legitimate expense—that the public benefit predominates. However, if the expense were paid by a third party, such as a potential contractor, for something which provided a private benefit, then the question would arise of whether the benefit was intended to influence your judgment. For this reason, it’s better for local officials to pay their own way and seek reimbursement from their local unit.

There may be some cases, though, where the cost is high and is incurred primarily for a public benefit. For example, if an official travels to see an expensive piece of equipment or a facility and incurs airplane, lodging, meal and entertainment costs, it seems that the local unit

might legitimately accept payment from the prospective vendor for the travel and lodging expenses. While this may be justified in some cases, it nevertheless seems better for the local unit to cover its officials' reasonable costs and seek savings from the vendor instead in the cost of the equipment being sold. Regarding the meal and entertainment expenses incurred in such a trip, the safest course is for these expenses to be paid by the official, subject to reimbursement under the local unit's guidelines.

**17. What is the recent “pay-to-play” prohibition in the Code of Ethics for Local Officials?**

No “local public official” or “candidate for local public office” may, directly or by an agent, use his/her office or influence regarding a proposed or pending matter in exchange for another person providing or refraining from providing a political contribution or providing or refraining from providing any service or other thing of value for the benefit of a “candidate,” a political party, any other person who must register under the campaign finance law, or to any person who makes a “communication” that refers to a “clearly identified” local public official holding an elective office or to a candidate for such office. Sec. 19.59(1)(br, *Wis. Stats.* (The terms in quotes are defined in sec. 19.42.) The pay-to-play prohibitions are enforced by a district attorney (or the attorney general) and violators are subject to forfeitures, court orders and criminal penalties. Secs. 19.58 and 19.59(7)-(8). However, a complaint alleging a violation of the law may not be brought within a specified period prior to the election for the local office.

Note that it is not a violation of the provision prohibiting a local official from using his/her office to obtain private gain, sec. 19.59(1)(a), when the official uses “the title or prestige of his or her office to obtain campaign contributions that are permitted and reported” under the campaign finance law. Sec. 19.59(1)(a).

## Contracts

**18. May I contract with my local unit to sell goods or equipment or land?** Yes, subject to limits. Of course, you may not, under the Code of Ethics, vote to award yourself the contract or act in any official capacity regarding the contract, such as performing inspections or authorizing payments. This same prohibition on *official* action in regard to a contract is also found in a felony statute, sec. 946.13(1)(b), *Wis. Stats.* In general, as long as you abstain from all official involvement, you do not violate the law, except as follows.

You must keep in mind that the felony statute, sec. 946.13(1)(a), prohibits a public officer or employee from acting in a *private* capacity to negotiate, bid or enter into a contract where the officer is *authorized* or required by law to participate in an official capacity in making the contract or exercising discretion under the contract, unless an exception applies. This means that it is possible to abstain and still violate the law—you may have to choose between doing business with your unit and keeping your public office or job. The most commonly used exception is the one that allows a public officer or employee to avoid violating the law by abstaining completely from official action when he or she has a direct or indirect financial interest in contracts with the local unit as long as the total receipts or disbursements under the contracts in which the individual has an interest do not exceed \$15,000 in a calendar year. (*Note:* Your salary as a public official is not counted in figuring the \$15,000 limit.) If the contracts in which you have an interest exceed (or would exceed) that amount in a year, you may have committed a felony, even if you abstained, by, in your private capacity, negotiating, bidding or entering into the contract. Furthermore, you can violate the felony statute merely by bidding on

the contract, even if you do not receive it. Finally, note that it is the annual total of the payments under the contracts that is subject to the \$15,000 ceiling and triggers a violation, rather than your personal financial interest (e.g., a commission), which may be less than \$15,000.

*Note:* Violation of sec. 946.13 is a serious matter, a Class I felony, which means that it is punishable by a fine not to exceed \$10,000, 3 ½ years in prison, or both. Violations are prosecuted by the district attorney, and the law provides that a contract entered into in violation of the statute is void.

**19. *May I provide services on contract with my local unit?*** Yes, the above considerations apply when you are an independent contractor. An independent contractor is one who provides his/her own tools and equipment in performing the job and exercises responsibility over how the work is done. This is in contrast to a part-time employee (see ##22 & 23 below). If you are an independent contractor, you must abstain from any involvement in your official capacity in approving or administering the contract. By abstaining, you are protected unless the contracts in which you have an interest exceed the \$15,000 amount for the receipts and disbursements in a year (see #18, above).

**20. *What about contracts involving my immediate family, an organization that I am associated with or my employer?*** As with the above examples concerning contracts in which you have a personal interest (##18 and 19), the Code of Ethics prohibits you from voting or acting in an official capacity in a contract involving your immediate family or an organization with which you are associated, subject to the definitions in that Code. However, because the definitions do not cover many situations, the Code may not apply. For example, you could vote to award a contract to your brother, because he would not be an “immediate family” member as that term is defined. (See item #10). This illustrates that even though a matter may not be prohibited by the Code of Ethics, other statutes or your ordinance, *you may nevertheless decide to abstain based on appearances*. Exercise great caution, however, regarding the \$15,000 ceiling on total annual contract payments if you may be deemed to have a direct or indirect personal financial interest in the contracts (see ##18, above).

In addition, under the definitions in the Code of Ethics, although you are not “associated” with your employer merely by being an employee, because of your personal interest in employment, you must abstain from voting on contracts involving your employer.

### **Compatibility Issues: Conflicts in Holding More Than One Local Office or Position & in Job Creation & Selection**

**21. *As a local official, may I serve in other local offices?*** The general rule is that the same person cannot hold two public offices, or an office and a position (see ##22 & 23, below), where one post is superior to another, or where, from a public policy perspective, it is improper for the same person to hold both. *Otradovec v. City of Green Bay*, 118 Wis.2d 293 (Ct. App. 1984). Therefore, a local governing body member cannot hold two local offices within the same unit of government, unless there is specific authorization. (A county officer is specifically prohibited from being on the county board by sec. 59.10(4), as mentioned in the following item.) For example, town, village, city and county governing body members may generally serve on local boards and commissions. Secs. 59.10(4)(counties) & 66.0501(2)(cities, villages & towns), *Wis. Stats.* Also, specific statutes allow governing body members to serve on various boards and

commissions, as is the case with town, village and city governing body members serving on the board of review and the plan commission. Secs. 70.46(1) & 62.23(1).

With regard to serving in offices for two different units, it is necessary to look at the particular offices involved to see if there is a conflict. Specific statutes may apply. For example, a county board supervisor may also serve as a town, village or city governing body member. Sec. 59.10(4). Also, the office of county board supervisor may be consolidated under a village or city charter ordinance with the office of village president or alderperson, if the boundaries of the county supervisory district are the same as those of the village or the aldermanic district. Sec. 66.0503.

What about officers other than governing body members? Again, it's necessary to look at specific situations. Generally, there are fewer conflicts when non-governing body officers are involved. Also, the statutes may cover various situations. For example, town officers are generally prohibited from receiving payment for acting in more than one town office at the same time. Sec. 60.323. However, certain local offices may be combined: e.g., the offices of town clerk-treasurer and town clerk-assessor are allowed. Sec. 60.305. Similarly, city and village offices, other than governing body offices, may generally be combined by charter ordinance. Secs. 61.195 & 62.09(3)(c).

**22. As a governing body member, may I work as an employee for the local unit?** No, not unless there is specific statutory authorization, such as the one recently created for town officers (see #23, below). In general, as mentioned above, under the case law on compatibility of offices and positions, a governing body member cannot also be an employee of his/her local unit. The case establishing this prohibition, *Otradovec* (above at #21), ruled that an appraiser in the city assessor's office could not also serve on the city common council.

A specific compatibility provision for counties provides that no county officer or employee may be a county board supervisor. Sec. 59.10(4), *Wis. Stats.* However, an elected or appointed county official may serve as the administrative coordinator in a county without a county executive or county administrator. Sec. 59.19.

For cities, villages and towns, the statutory law creates an exception to the general compatibility doctrine. It allows a city, village or town elected official to serve as a **volunteer fire fighter, emergency medical technician or first responder** for his or her local unit, as long as the annual compensation, including fringe benefits, does not exceed \$15,000 for the public safety position. (The limit was raised by the 2001 budget act, 2001 Wisconsin Act 16, from \$2,500 to \$15,000.) Sec. 66.0501.

A recent enactment addresses the question of the eligibility of county, city, village and town employees to run for elective office. Sec. 66.0501(5), created by 2003 Wisconsin Act 79. These employees may generally run for elective public office, and they may not be required to take a leave of absence during their candidacy, although the new provision does not affect the authority of a public employer to regulate the conduct of a public employee while acting in an official capacity. Public employees who wish to run for elective office should determine whether an incompatibility would exist if they were elected. It should be noted, however, as explained in the Wisconsin Legislative Council Act Memo on Act 79, that the new law does not apply to an individual if the federal Hatch Act applies. That federal act generally prohibits federally funded state and local officers from running for elective office unless they take a leave of absence.

**23. As an elected town officer, may I do part-time work such as keeping roadways clear and plowing snow?** Yes, subject to limits. The 2001 budget act created an exception to the compatibility doctrine for elected town officers, in addition to the above exception (#22) for the specified public safety positions. Sec. 66.0501(4), *Wis. Stats.*

This recent language provides that it is compatible for an elected town officer to receive wages for work he or she performs for the town as a part-time employee. Sec. 66.0501(4). An elected town officer who also serves as a part-time town employee may receive an hourly wage not exceeding a total of \$5,000 per year. Sec. 60.37(4). (For elected town officers who are a clerk, treasurer or clerk-treasurer this \$5,000 figure was raised to \$15,000 by 2007 Wisconsin Act 20). These wages are *in addition* to the amounts that may be received in the above public safety positions (#22) and for the person's elected office. However, the \$5,000 maximum *includes* amounts paid to a town board supervisor acting as superintendent of highways under sec. 82.03(1).

The town meeting of electors sets the hourly wage for an elected town officer serving as a town employee. Sec. 60.10(1)(g). The town meeting may delegate to the town board the authority to set this wage, except that the town meeting cannot delegate the authority to set the wage for a town board supervisor serving as a town employee. Sec. 60.10(2)(L).

*Note:* Even though a town officer may receive wages as a town employee, the town officer, under the Code of Ethics for Local Officials (#9, above), may not use his/her official capacity for his/her own financial gain, and would therefore have to abstain from official involvement as a town officer in this hiring decision and should likewise abstain from approving payment to himself or herself for such work. Also, remember that being a part-time employee is different from being an independent contractor; for the latter abstention and the \$15,000 limit on contracts apply, as discussed in ##18-20, above.

**24. As a governing body member, may I take another office or a job with my local unit? What if I resign from the governing body?** The answer depends upon the circumstances. First, as discussed in items ##21-23, the law of compatibility prohibits a governing body member from holding another office or position with the unit, unless a statutory exception applies. A specific statute addresses the eligibility of governing body members for election or appointment to offices and positions. Sec. 66.0501(2), *Wis. Stats.* This statute provides generally that no member of a city council or of a town, village or county board may, during the term for which the member is elected, be eligible for an office or position created during the term by the governing body or for an existing office or position where the selection is vested in the governing body.

This general prohibition, however, is subject to exceptions. It does not apply to being eligible for an elected office, or if a statute provides an exception. Also, the statute provides that the prohibition on a governing body member taking an *existing* office or job, where selection is vested in the governing body, does not apply if the member *resigns* prior to appointment. If the job or office was created during your term on the governing body, you may not resign and take the office or position during your current term of office, unless there is specific statutory authorization to do so. Sec. 66.0501(2). Of course, you could be elected to office. For example, you may as a governing body member run for and be elected to the newly created or existing office of municipal judge. However, taking the office of municipal judge would, under the compatibility of offices doctrine, #21 above, create a vacancy in your office on the governing body.

If the job or office is new and appointed, you would have to wait until after your current term has expired, and you are no longer on the governing body, to take the job or office (unless a statutory exception applies). The position of administrator serves as a good example. If you serve on a city, village or town governing body and that body creates the position of administrator, you could not resign and be appointed to fill that new post during your current term. However, if the position of administrator was in existence prior to your term of office, you could resign from the governing body and then be appointed to the position.

In contrast to the prohibition on appointment as administrator of a sitting city, village or town governing body member, it appears that a sitting county board member may be eligible for appointment as county administrator. The law provides that, "If any member of the (county) board is appointed as county administrator, his or her status as a board member is thereby terminated," except in the case of filling a vacancy in the position of administrator for up to 15 days. Sec. 59.18(1). If this situation arises, it is advisable to seek the opinion of corporate counsel on the interplay of the prohibitions in sec. 66.0501(2) and the applicability of the apparent exception in sec. 59.18(1).

The question may also arise as to whether the general prohibition in sec. 66.0501(2) prevents a governing body member from serving in one of the designated part-time public safety positions (#22, above) or prevents a town board supervisor from working on a part-time town job (#23, above) if the position was created during the governing body member's current term of office, or the selection is vested with the governing body. It appears that these provisions allowing elected officials to hold certain part-time positions (##22 & 23) are intended as exceptions to the general prohibition on governing body members taking jobs created during their current term of office or where selection is vested in the governing body.

Finally, it should be emphasized that you, as a governing body member, must not use the power of your office to obtain a new position, or to obtain financial gain for yourself. This could violate the Code of Ethics for Local Officials (sec. 19.59, #9 above) and could constitute misconduct in office (sec. 946.12)(#25j below). In addition, the felony statute prohibiting private interests in public contracts (##18-20) could also be involved if you, as a governing body member, submitted a job application for a job with a yearly payment over \$15,000 (unless a statutory exception applies).

### Other Provisions

**25. *What other ethics provisions are in the Wisconsin Statutes?*** This FAQs paper has primarily covered the Code of Ethics for Local Officials, found in subch. III of ch. 19, *Wis. Stats.*, and the related criminal provision on public interests in private contracts, sec. 946.13. These are the most commonly-referenced Wisconsin statutory provisions. However, there are a number of other provisions relating to ethics and conflicts of interest in the law. Some of them, such as the prohibition on certain sales to local employees, are very narrow. Following is a listing of Wisconsin ethics and conflicts-of-interest provisions, including the statutes covered in this paper (which are indicated by an asterisk). (For information on how to access the statutes, see #3 above.)

*a. Bribery.* Secs. 12.11 and 946.10. The scope of prohibitions covered by sec. 12.11 includes promising an official appointment or anything of value to secure votes. Section 946.10 prohibits public officials from taking bribes.

*b. Discounts at certain stadiums.* Sec. 19.451. Local officials may not accept discounts on prices charged to the general public for parking and seating at the stadiums of professional teams that are exempt from the property tax under sec. 70.11(36).

*c. \*Code of Ethics for Local Officials (## 9-11).* Secs. 19.42, 19.58 and 19.59. These statutes provide ethical standards for local officials, and authorize a local ethics ordinance and establishment of a local ethics board.

*d. \*Eligibility for office (##21-24).* Sec. 66.0501. This provision addresses limits on a local officer holding or taking another local office or position.

*e. Compensation of governing body members.* Sec. 66.0505 (formerly sec. 66.196). County, city, village and town governing body members may not give themselves mid-term salary increases. A new sub. (3), created by 2007 Wisconsin Act 49, creates a procedure for an elected official to refuse his or her salary. Salary and benefit changes are also covered by various specific provisions in the county, city, village, town and municipal law chapters of the statutes.

*f. Fraud by board of review member.* Sec. 70.502. Such member may not intentionally violate the law or fail to perform duties.

*g. Sales to liquor (and wine) licensees or applicants.* Sec. 125.51(1)(b). A member of a municipal governing body may not sell or offer to sell a bond, material or product to be used in the licensee's business.

*h. Sales to local employees.* Sec. 175.10. Local units of government, governing body members and purchasing agents in general may not sell things to their own employees. The prohibition does not cover meals, public services and items required for the safety or health of employees. The prohibition also does not apply to recreational, health, welfare, relief, safety or educational activities furnished by the governmental unit.

*i. \*Special privilege (travel, transportation, utilities)(#15).* Sec. 946.11; Art. 13, sec. 11, *Wis. Const.* Public officers may not be given, or receive, free or discounted traveling accommodation, transportation for persons or property, or transmission of messages or communications not available to the general public.

*j. Misconduct in office.* Sec. 946.12. A public official or employee may not intentionally: fail to do a mandatory, nondiscretionary, ministerial duty; act in excess of his or her authority; abuse his or her discretion with the intent to obtain a dishonest advantage for the officer, employee or another; falsify records; or under- or over-value any duty or service whose cost is fixed by law.

*k. \*Private interests in public contracts (##18-20).* Sec. 946.13. This statute places limits or prohibits local officials and employees with authority over contracts from bidding or entering into such contracts (subject to exceptions).

*l. Purchasing claims at less than full value.* Sec. 946.14. Public officers and employees may not, in their private capacity, intentionally purchase for less than full value any claim against the state or a political subdivision of the state.

*m. Public construction contracts at less than full value.* Sec. 946.15. Compensation due to persons employed under these contracts may not be given up, waived, returned or reduced.

**Health and Human Services Committee****AGENDA INFORMATION SHEET**

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|                     |                          |
|---------------------|--------------------------|
| <b>AGENDA DATE:</b> | <b>July 26, 2022</b>     |
| <b>DEPARTMENT:</b>  | <b>County Clerk</b>      |
| <b>DIRECTOR:</b>    | <b>Julie Winkelhorst</b> |
| <b>PREPARER:</b>    | <b>Julie Winkelhorst</b> |

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**Agenda Summary** May 24 & July 6, 2022

May 24, 2022

[<https://www.co.ozaukee.wi.us/AgendaCenter/ViewFile/Minutes/\\_05242022-3087>](https://www.co.ozaukee.wi.us/AgendaCenter/ViewFile/Minutes/_05242022-3087)

July 6, 2022

[<https://www.co.ozaukee.wi.us/AgendaCenter/ViewFile/Minutes/\\_07062022-3104>](https://www.co.ozaukee.wi.us/AgendaCenter/ViewFile/Minutes/_07062022-3104)

## Health and Human Services Committee

### AGENDA INFORMATION SHEET

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**AGENDA DATE:** July 26, 2022  
**DEPARTMENT:** Lasata Campus  
**DIRECTOR:** Patricia Brown  
**PREPARER:** Christine Kuemmerlein

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Agenda Summary Lasata Campus Reports

#### ATTACHMENTS:

- Lasata Financial and Monthly Reports (PDF)

## Lasata Care Center

## June 2022 Monthly Report

Chris Kuemmerlein

| Payor Mix Days | Current Month Actual AVG | YTD actual AVG | Budget |
|----------------|--------------------------|----------------|--------|
| Medicare/MC    | 10                       | 11             | 20     |
| Private        | 18                       | 18             | 27     |
| Medicaid       | 43                       | 43             | 63     |
| Total          | 71                       | 72             | 110    |

| Payor Mix   | Current Month Actual | YTD actual | Budget |
|-------------|----------------------|------------|--------|
| Medicare/MC | 14%                  | 15%        | 18%    |
| Private     | 25%                  | 25%        | 25%    |
| Medicaid    | 61%                  | 60%        | 57%    |

**Organization and Operations Focus**

- Presentation by Michael Peer CLA – Senior Living Industry Update
- Campus Tour

**Staffing/employee**

- Census = Recruitment/Retention efforts
- Lasata Crossings Leadership update

**Regulatory Updates**

- Changes to survey process
- Changes in Covid testing and reporting protocols

**Campus Projects and initiatives:**

- Planning for Campus-wide oversight by department
- Heights grant project update

**Campus Financials:**

- Lasata - Wisconsin Medicaid Supplemental Payment

## **LASATA HEIGHTS MONTHLY REPORT**

**June 2022**

**Kristen Sonnenberg, Director of Senior Apartments**

### **Census:**

- June census – 39

#### **Breakdown of empty apartments:**

- 102, 108 and 211 are currently being used while the 3 Tenants apartments are being remodeled on the north side
- 212, 215, 315, and 319 are not currently able to be rented due to construction needing to work on apartments in stacks
- Apartments 113, 114, 115, 213, 214, 216, 217, 220, 312, 313, 314, 316, 318, 320 are vacant and will be remodeled in 2022
- Apartment 106 will be vacated as of 6/30- Tenant has moved to the Crossings.

### **Misc:**

- There were 6 tours in June- All tours were made aware of the remodeling and encouraged to go on our waiting list if interested.
- Construction continues on the north side of the building- we are still in Phase 1 with 15 apartments being remodeled. Per Selzer-Ornst, Tenants who have been temporary moved out of their apartments for phase 1 can move back into their apartments the first week of August. Between moving Tenants back to their original apartments and moving the remaining Tenants out for the beginning of Phase 2 there will be 9 moves completed between July 18<sup>th</sup> and August 5<sup>th</sup>. Selzer- Ornst is looking at Phase 1 being completed mid-August (about 3 weeks behind)
- In June, we had our Kickoff Cycling Without Age Celebration with bike rides, refreshments and live music. We also had our first Music in the Courtyard of the season. Weekly Dining on the Patio resumed during the warmer weather, and we had a nice performance by Lasata Players of “Fractured Fairy Tales”, along with a successful craft and bake sale, raising \$575.00. This money will go towards future activities at the Heights.

## Lasata Crossings Monthly Report

June 2022

Submitted by: Laurel Bath

- **Census:** At the end of June, the census is 53 with 50 in assisted living and 3 additional persons in assisted living. The group consists of 46 tenants paying privately, 6 are utilizing Family Care.
- **Leadership:** Laurel Bath is the new Interim Director of Assisted Living at the Crossings as of June 7<sup>th</sup>, 2022
- **Admission/Discharges in JUNE:**
  - Discharges:
    - There were 0 discharges in June
  - Admissions:
    - There was 1 admission in June; transferred from Lasata Heights
    - We have had 3 applications turned in with Wait List Fees paid and looking to move in very soon.

### Open Staff Positions:

- **AM Shift:** 1-2<sup>nd</sup> shift Employee coming back full time on 1<sup>st</sup> shift.
- **PM Shift:** 2-Part Time Openings; interviews complete working on reference and background checks.
- **NOC shift:** .2 FTE/On Call; applicants not returning messages; attempting to combine with PM/On-call opportunities
- **Cook:** 1 FTE; no applications received from interested parties
- **Waiting List:**
  - There are 14 individuals on the waiting list for Family Care Studio apartments.
  - There are 16 individuals (this includes 2 couples) on our waiting list for one- and two-bedroom apartments; 10 of these are on the inactive list.
    - *Wait List: Application and \$500 fee (refundable) on file*
    - *Inactive List: Name on list; application complete and refundable fee on file but they prefer we not contact them.*
    - *Current residents and tenants on campus do not submit a waitlist fee.*
- **Miscellaneous**
  - **Activities:** We had many fun activities planned and well attended.
    - We had the Kick off the Cycling without Age Tri-Shaw bicycle program; we have volunteers from the community that have come to attend training for the bikes and are now getting our seniors out in the fresh air and stops for ice cream. We have had a few local Cedarburg businesses donate ice cream and other treats for our tenants towards this program
    - We have been attending to Caterpillars that morphed into Butterflies and we held a 'release party'

- We also had a putting green in the activity room for some practice
  - A special Father's Day Breakfast to celebrate all of our dads
  - We also had a great field trip to Blue Lotus Farm and Retreat Center
  - The tenants were able to fish, go for paddle boat rides and enjoy friendships and the beauty of nature while enjoying a picnic lunch.
  - We finished off the month of June with a skit put on by our Lasata Players called "Fractured Fairy Tales".
  - Garden Club is in full swing as are weekly shopping trips and out to lunch.
- **Visiting:** We are Open to visitors. We require all visitors to complete the screening form, must have a mask on to enter the facility/be in common areas. They do not need to wear a mask while visiting in tenants' apartments (door closed). We request no more than two visitors in an apartment at any time. We routinely have 20+ visitors a day.
  - **Satisfaction Surveys** from WCCEAL have been submitted, results have not yet been returned.

Ozaukee County Committee Report  
**Enterprise Fund Lasata Care Center**  
 For the Six Months Ending Thursday, June 30, 2022  
 Profit and Loss Statement ACTUAL TO AMENDED BUDGET

|                                             | Current<br>Month<br>Actual | 2022<br>YTD<br>Actual | 2022<br>Amended<br>Budget | Budget<br>Balance  | %<br>Budget<br>YTD |
|---------------------------------------------|----------------------------|-----------------------|---------------------------|--------------------|--------------------|
| <b>Revenues</b>                             |                            |                       |                           |                    |                    |
| Public Charges for Services                 | \$695,021                  | \$4,291,096           | \$12,491,963              | \$8,200,867        | 34.35%             |
| Interest Revenue                            | \$1                        | \$23                  | -                         | (\$23)             | 0.00%              |
| Other Revenue                               | \$718,689                  | \$788,740             | \$1,459,650               | \$670,910          | 54.04%             |
| <b>Total Revenues</b>                       | <b>\$1,413,711</b>         | <b>\$5,079,859</b>    | <b>\$13,951,613</b>       | <b>\$8,871,754</b> | <b>36.41%</b>      |
| <b>Expenditures</b>                         |                            |                       |                           |                    |                    |
| Salaries                                    | \$473,154                  | \$2,969,487           | \$7,153,679               | \$4,184,192        | 41.51%             |
| Fringe Benefits                             | \$145,802                  | \$1,047,217           | \$2,675,254               | \$1,628,037        | 39.14%             |
| Travel/Training                             | -                          | \$538                 | \$10,000                  | \$9,462            | 5.38%              |
| Supplies                                    | \$15,019                   | \$187,656             | \$545,850                 | \$358,194          | 34.38%             |
| Purchased Services                          | \$119,516                  | \$811,395             | \$1,938,804               | \$1,127,409        | 41.85%             |
| Interdepartment Charges                     | \$82,668                   | \$247,528             | \$522,273                 | \$274,745          | 47.39%             |
| Depreciation                                | -                          | \$272,250             | \$828,000                 | \$555,750          | 32.88%             |
| Debt Service                                | -                          | \$162,953             | \$209,900                 | \$46,947           | 77.63%             |
| Other Expenses                              | \$41,159                   | \$382,540             | \$754,228                 | \$371,688          | 50.72%             |
| <b>Total Operating Expenditures</b>         | <b>\$877,318</b>           | <b>\$6,081,564</b>    | <b>\$14,637,988</b>       | <b>\$8,556,424</b> | <b>41.55%</b>      |
| <b>Capital Outlay</b>                       |                            |                       |                           |                    |                    |
| Equipment & Furniture                       | \$7,634                    | \$66,988              | \$120,000                 | \$53,012           | 55.82%             |
| Buildings & Land                            | -                          | \$1,059               | \$20,000                  | \$18,941           | 5.30%              |
| Contra                                      | -                          | -                     | (\$140,000)               | (\$140,000)        | 0.00%              |
| <b>Total Capital Outlay</b>                 | <b>\$7,634</b>             | <b>\$68,047</b>       | <b>-</b>                  | <b>(\$68,047)</b>  | <b>0.00%</b>       |
| <b>Total Expenditures</b>                   | <b>\$884,952</b>           | <b>\$6,149,611</b>    | <b>\$14,637,988</b>       | <b>\$8,488,377</b> | <b>42.01%</b>      |
| Other Finance (Sources)                     | -                          | (\$686,376)           | (\$686,376)               | -                  | 100.00%            |
| <b>Net Other Financing<br/>Sources/Uses</b> | <b>-</b>                   | <b>(\$686,376)</b>    | <b>(\$686,376)</b>        | <b>-</b>           | <b>100.00%</b>     |
|                                             |                            |                       |                           |                    | <b>3833760</b>     |
| <b>Net Increase (Decrease)</b>              | <b>\$528,759</b>           | <b>(\$383,376)</b>    | <b>\$1</b>                | <b>\$383,377</b>   | <b>0.00%</b>       |
| <b>Equity:</b>                              |                            |                       |                           |                    |                    |
| Retained Earnings                           | -                          | \$1,855,754           | -                         | (\$1,855,754)      | 0.00%              |

Attachment: Lasata Financial and Monthly Reports (Lasata Campus Monthly Reports)

Ozaukee County Committee Report  
**Enterprise Fund Lasata Heights**  
 For the Six Months Ending Thursday, June 30, 2022  
 Profit and Loss Statement ACTUAL TO AMENDED BUDGET

|                                     | Current<br>Month<br>Actual | 2022<br>YTD<br>Actual | 2022<br>Amended<br>Budget | Budget<br>Balance  | %<br>Budget<br>YTD |
|-------------------------------------|----------------------------|-----------------------|---------------------------|--------------------|--------------------|
| <b>Revenues</b>                     |                            |                       |                           |                    |                    |
| Public Charges for Services         | \$56,089                   | \$366,893             | \$789,565                 | \$422,672          | 46.47%             |
| Other Revenue                       | \$679                      | \$1,284               | \$1,100                   | (\$184)            | 116.73%            |
| <b>Total Revenues</b>               | <b>\$56,768</b>            | <b>\$368,177</b>      | <b>\$790,665</b>          | <b>\$422,488</b>   | <b>46.57%</b>      |
| <b>Expenditures</b>                 |                            |                       |                           |                    |                    |
| Salaries                            | \$11,450                   | \$84,712              | \$220,482                 | \$135,770          | 38.42%             |
| Fringe Benefits                     | \$8,377                    | \$50,005              | \$83,934                  | \$33,929           | 59.58%             |
| Travel/Training                     | -                          | -                     | \$1,000                   | \$1,000            | 0.00%              |
| Supplies                            | \$10,560                   | \$20,819              | \$55,850                  | \$35,031           | 37.28%             |
| Purchased Services                  | \$11,029                   | \$57,519              | \$148,822                 | \$91,303           | 38.65%             |
| Interdepartment Charges             | \$966                      | \$6,401               | \$24,792                  | \$18,391           | 25.82%             |
| Depreciation                        | -                          | \$73,502              | \$223,000                 | \$149,498          | 32.96%             |
| Other Expenses                      | \$1,394                    | \$20,271              | \$32,786                  | \$12,515           | 61.83%             |
| <b>Total Operating Expenditures</b> | <b>\$43,776</b>            | <b>\$313,229</b>      | <b>\$790,666</b>          | <b>\$477,437</b>   | <b>39.62%</b>      |
| <b>Capital Outlay</b>               |                            |                       |                           |                    |                    |
| Equipment & Furniture               | \$20,826                   | \$33,549              | \$75,000                  | \$41,451           | 44.73%             |
| Buildings & Land                    | \$112,497                  | \$144,205             | \$15,000                  | (\$129,205)        | 961.37%            |
| Contra                              | -                          | -                     | (\$90,000)                | (\$90,000)         | 0.00%              |
| <b>Total Capital Outlay</b>         | <b>\$133,323</b>           | <b>\$177,754</b>      | <b>-</b>                  | <b>(\$177,754)</b> | <b>0.00%</b>       |
| <b>Total Expenditures</b>           | <b>\$177,099</b>           | <b>\$490,983</b>      | <b>\$790,666</b>          | <b>\$299,683</b>   | <b>62.10%</b>      |
|                                     |                            |                       |                           |                    |                    |
|                                     |                            |                       |                           |                    |                    |
|                                     |                            |                       |                           |                    | <b>1228060</b>     |
| <b>Net Increase (Decrease)</b>      | <b>(\$120,331)</b>         | <b>(\$122,806)</b>    | <b>(\$1)</b>              | <b>\$122,805</b>   | <b>0.00%</b>       |
| <i>Equity:</i>                      |                            |                       |                           |                    |                    |
| Retained Earnings                   | -                          | (\$1,142,952)         | -                         | \$1,142,952        | 0.00%              |

**Attachment: Lasata Financial and Monthly Reports (Lasata Campus Monthly Reports)**

Ozaukee County Committee Report  
**Enterprise Fund Lasata RCAC**  
 For the Six Months Ending Thursday, June 30, 2022  
 Profit and Loss Statement ACTUAL TO AMENDED BUDGET

|                                             | Current<br>Month<br>Actual | 2022<br>YTD<br>Actual | 2022<br>Amended<br>Budget | Budget<br>Balance  | %<br>Budget<br>YTD |
|---------------------------------------------|----------------------------|-----------------------|---------------------------|--------------------|--------------------|
| <b>Revenues</b>                             |                            |                       |                           |                    |                    |
| Public Charges for Services                 | \$237,124                  | \$1,515,976           | \$3,304,559               | \$1,788,583        | 45.88%             |
| Other Revenue                               | \$15,011                   | \$16,939              | \$2,000                   | (\$14,939)         | 846.95%            |
| <b>Total Revenues</b>                       | <b>\$252,135</b>           | <b>\$1,532,915</b>    | <b>\$3,306,559</b>        | <b>\$1,773,644</b> | <b>46.36%</b>      |
| <b>Expenditures</b>                         |                            |                       |                           |                    |                    |
| Salaries                                    | \$87,774                   | \$526,350             | \$1,110,207               | \$583,857          | 47.41%             |
| Fringe Benefits                             | \$25,658                   | \$169,218             | \$376,015                 | \$206,797          | 45.00%             |
| Travel/Training                             | -                          | -                     | \$1,000                   | \$1,000            | 0.00%              |
| Supplies                                    | \$11,104                   | \$78,212              | \$150,800                 | \$72,588           | 51.86%             |
| Purchased Services                          | \$24,286                   | \$116,664             | \$256,901                 | \$140,237          | 45.41%             |
| Interdepartment Charges                     | \$3,981                    | \$24,504              | \$99,457                  | \$74,953           | 24.64%             |
| Depreciation                                | -                          | \$121,137             | \$365,900                 | \$244,763          | 33.11%             |
| Debt Service                                | -                          | \$82,063              | \$173,425                 | \$91,362           | 47.32%             |
| Other Expenses                              | \$7,883                    | \$42,336              | \$86,479                  | \$44,143           | 48.96%             |
| <b>Total Operating Expenditures</b>         | <b>\$160,686</b>           | <b>\$1,160,484</b>    | <b>\$2,620,184</b>        | <b>\$1,459,700</b> | <b>44.29%</b>      |
| <b>Capital Outlay</b>                       |                            |                       |                           |                    |                    |
| Equipment & Furniture                       | -                          | \$5,826               | \$25,000                  | \$19,174           | 23.30%             |
| Buildings & Land                            | -                          | -                     | \$25,000                  | \$25,000           | 0.00%              |
| Contra                                      | -                          | -                     | (\$50,000)                | (\$50,000)         | 0.00%              |
| <b>Total Capital Outlay</b>                 | <b>-</b>                   | <b>\$5,826</b>        | <b>-</b>                  | <b>(\$5,826)</b>   | <b>0.00%</b>       |
| <b>Total Expenditures</b>                   | <b>\$160,686</b>           | <b>\$1,166,310</b>    | <b>\$2,620,184</b>        | <b>\$1,453,874</b> | <b>44.51%</b>      |
| Other Finance Uses                          | -                          | \$686,376             | \$686,376                 | -                  | 100.00%            |
| <b>Net Other Financing<br/>Sources/Uses</b> | <b>-</b>                   | <b>\$686,376</b>      | <b>\$686,376</b>          | <b>-</b>           | <b>100.00%</b>     |
|                                             |                            |                       |                           |                    | <b>3197710</b>     |
| <b>Net Increase (Decrease)</b>              | <b>\$91,449</b>            | <b>(\$319,771)</b>    | <b>(\$1)</b>              | <b>\$319,770</b>   | <b>0.00%</b>       |
| <b>Equity:</b>                              |                            |                       |                           |                    |                    |
| Retained Earnings                           | -                          | \$637,076             | -                         | (\$637,076)        | 0.00%              |

Attachment: Lasata Financial and Monthly Reports (Lasata Campus Monthly Reports)

### 7.20 Supplemental Payments for Facilities Operated by Local Units of Government

Total supplemental payment funding of \$39,100,000 will be made unless it is determined that aggregate payments would exceed the Medicare upper limit, or if additional supplemental funding is authorized by state statute. (For information on the Medicare upper limit, see section 7.30.)

In order to participate in the supplemental payment program, each NF must have on file a cost report, a prospective supplemental award application form, and a signed affidavit certifying the amount of local government expenditures eligible for FFP under 42 CFR 433.51(b).

Supplemental payments will be awarded based on the following calculated Medicaid deficits from the audited cost reports used for rate-setting.

- The Projected Direct Care Operating Deficit (DCOD).
- The Projected Overall Operating Deficit (OAOD).
- The Eligible Direct Care Deficit (EDCD) (Equal to the lesser of the DCOD or the OAOB).
- The projected non-direct care deficit (Equal to the OAOB less the EDCD).

If funding is sufficient, each facility will receive their OAOB. If funds are not sufficient, each facility will receive their EDCD and remaining funds will be distributed according to facility's non-direct care deficit per Medicaid day. If funds are not sufficient to distribute each facility's EDCD, facilities will receive payments for each Medicaid patient day up to the amount of their EDCD.

If a governmental facility is sold during the effective period of this plan, deficits and patient days will be prorated based on the number of calendar days the facility was licensed as a governmental facility during the cost reporting period. If the facility was sold prior to the effective period of this plan, there shall be no award under this provision. If an existing facility is purchased by a local unit of government during the effective period of this plan, there will be no award because the purchasing local unit of government had no days during the cost reporting period.

## Health and Human Services Committee

### AGENDA INFORMATION SHEET

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**AGENDA DATE:** July 26, 2022  
**DEPARTMENT:** Veterans Service  
**DIRECTOR:** Kevin Johnson  
**PREPARER:** Kevin Johnson

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**Agenda Summary** Veterans Services Report

#### **ATTACHMENTS:**

- 2022 Veterans Financials June (PDF)

Ozaukee County Committee Report  
**General Fund Veterans Services**  
 For the Six Months Ending Thursday, June 30, 2022  
 Profit and Loss Statement ACTUAL TO AMENDED BUDGET

|                                     | Current<br>Month<br>Actual | 2022<br>YTD<br>Actual | 2022<br>Amended<br>Budget | Budget<br>Balance  | %<br>Budget<br>YTD |
|-------------------------------------|----------------------------|-----------------------|---------------------------|--------------------|--------------------|
| <b>Revenues</b>                     |                            |                       |                           |                    |                    |
| Intergovernmental Revenues          | -                          | \$19,300              | \$20,000                  | \$700              | 96.50%             |
| Public Charges for Services         | \$140                      | \$590                 | \$1,500                   | \$910              | 39.33%             |
| Interest Revenue                    | \$7                        | \$14                  | \$50                      | \$36               | 28.00%             |
| Other Revenue                       | -                          | \$200                 | -                         | (\$200)            | 0.00%              |
| <b>Total Revenues</b>               | <b>\$147</b>               | <b>\$20,104</b>       | <b>\$21,550</b>           | <b>\$1,446</b>     | <b>93.29%</b>      |
| <b>Expenditures</b>                 |                            |                       |                           |                    |                    |
| Salaries                            | \$8,343                    | \$58,774              | \$143,699                 | \$84,925           | 40.90%             |
| Fringe Benefits                     | \$3,457                    | \$23,709              | \$44,022                  | \$20,313           | 53.86%             |
| Travel/Training                     | -                          | \$3,092               | \$10,800                  | \$7,708            | 28.63%             |
| Supplies                            | \$416                      | \$957                 | \$1,100                   | \$143              | 87.00%             |
| Purchased Services                  | \$26                       | \$1,035               | \$3,940                   | \$2,905            | 26.27%             |
| Interdepartment Charges             | \$583                      | \$4,011               | \$8,273                   | \$4,262            | 48.48%             |
| Grants                              | \$1,000                    | \$1,468               | \$5,000                   | \$3,532            | 29.36%             |
| Other Expenses                      | -                          | \$4,938               | \$7,500                   | \$2,562            | 65.84%             |
| <b>Total Operating Expenditures</b> | <b>\$13,825</b>            | <b>\$97,984</b>       | <b>\$224,334</b>          | <b>\$126,350</b>   | <b>43.68%</b>      |
| <b>Capital Outlay</b>               |                            |                       |                           |                    |                    |
| <b>Total Expenditures</b>           | <b>\$13,825</b>            | <b>\$97,984</b>       | <b>\$224,334</b>          | <b>\$126,350</b>   | <b>43.68%</b>      |
| <b>Net Increase (Decrease)</b>      | <b>(\$13,678)</b>          | <b>(\$77,880)</b>     | <b>(\$202,784)</b>        | <b>(\$124,904)</b> | <b>38.41%</b>      |

*Equity:*

Attachment: 2022 Veterans Financials June (Veterans Services Report)

**Health and Human Services Committee****AGENDA INFORMATION SHEET**

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|                     |                      |
|---------------------|----------------------|
| <b>AGENDA DATE:</b> | <b>July 26, 2022</b> |
| <b>DEPARTMENT:</b>  | <b>Public Health</b> |
| <b>DIRECTOR:</b>    | <b>Kim Buechler</b>  |
| <b>PREPARER:</b>    | <b>Tyler Quaas</b>   |

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**Agenda Summary** Public Health Report

**ATTACHMENTS:**

- Public Health Financials (PDF)

Ozaukee County Committee Report  
**Special Revenue Fund Public Health**  
 For the Six Months Ending Thursday, June 30, 2022  
 Profit and Loss Statement ACTUAL TO AMENDED BUDGET

|                                             | Current<br>Month<br>Actual | 2022<br>YTD<br>Actual | 2022<br>Amended<br>Budget | Budget<br>Balance  | %<br>Budget<br>YTD |
|---------------------------------------------|----------------------------|-----------------------|---------------------------|--------------------|--------------------|
| <b>Revenues</b>                             |                            |                       |                           |                    |                    |
| Taxes                                       | \$43,392                   | \$260,351             | \$520,702                 | \$260,351          | 50.00%             |
| Intergovernmental Revenues                  | \$50,963                   | \$162,657             | \$712,175                 | \$549,518          | 22.84%             |
| Public Charges for Services                 | \$785                      | \$4,975               | \$78,000                  | \$73,025           | 6.38%              |
| Intergovernmental Charges                   | \$19,310                   | \$409,840             | \$847,180                 | \$437,340          | 48.38%             |
| Interdepartmental Charges                   | \$1,667                    | \$10,000              | \$17,070                  | \$7,070            | 58.58%             |
| Licenses & Permits                          | \$76,136                   | \$247,768             | \$405,530                 | \$157,762          | 61.10%             |
| Other Revenue                               | \$500                      | \$1,224               | \$1,000                   | (\$224)            | 122.40%            |
| <b>Total Revenues</b>                       | <b>\$192,753</b>           | <b>\$1,096,815</b>    | <b>\$2,581,657</b>        | <b>\$1,484,842</b> | <b>42.48%</b>      |
| <b>Expenditures</b>                         |                            |                       |                           |                    |                    |
| Salaries                                    | \$119,459                  | \$831,850             | \$2,102,668               | \$1,270,818        | 39.56%             |
| Fringe Benefits                             | \$45,791                   | \$306,355             | \$613,284                 | \$306,929          | 49.95%             |
| Travel/Training                             | \$1,277                    | \$7,891               | \$58,768                  | \$50,877           | 13.43%             |
| Supplies                                    | \$1,208                    | \$23,385              | \$101,377                 | \$77,992           | 23.07%             |
| Purchased Services                          | \$9,106                    | \$56,420              | \$153,423                 | \$97,003           | 36.77%             |
| Interdepartment Charges                     | \$101                      | \$994                 | \$7,400                   | \$6,406            | 13.43%             |
| Other Expenses                              | \$48,451                   | \$179,978             | \$101,909                 | (\$78,069)         | 176.61%            |
| <b>Total Operating Expenditures</b>         | <b>\$225,393</b>           | <b>\$1,406,873</b>    | <b>\$3,138,829</b>        | <b>\$1,731,956</b> | <b>44.82%</b>      |
| <b>Capital Outlay</b>                       |                            |                       |                           |                    |                    |
| <b>Total Expenditures</b>                   | <b>\$225,393</b>           | <b>\$1,406,873</b>    | <b>\$3,138,829</b>        | <b>\$1,731,956</b> | <b>44.82%</b>      |
| Other Finance (Sources)                     | -                          | -                     | (\$557,167)               | (\$557,167)        | 0.00%              |
| <b>Net Other Financing<br/>Sources/Uses</b> | <b>-</b>                   | <b>-</b>              | <b>(\$557,167)</b>        | <b>(\$557,167)</b> | <b>0.00%</b>       |
|                                             |                            |                       |                           |                    | <b>6201160</b>     |
| <b>Net Increase (Decrease)</b>              | <b>(\$32,640)</b>          | <b>(\$310,058)</b>    | <b>(\$5)</b>              | <b>\$310,053</b>   | <b>.00%</b>        |
| <i>Equity:</i>                              |                            |                       |                           |                    |                    |
| Governmental Fund Balance                   | -                          | (\$1,866,478)         | -                         | \$1,866,478        | 0.00%              |

Attachment: Public Health Financials (Public Health Report)

## RESOLUTION NO. (ID # 8786)

**AMENDING SECTION 3.01(6) OF THE OZAUKEE COUNTY POLICY AND PROCEDURE  
MANUAL - POSITIONS & PAY GRADES: HUMAN SERVICES SOCIAL WORKER II  
POSITION**

RESOLVED, by the Ozaukee County Board of Supervisors that Section 3.01 (6) of the Policy and Procedure Manual be Amended to read;

|      |                                    |              |              |              |                       |
|------|------------------------------------|--------------|--------------|--------------|-----------------------|
| 3.01 | POSITIONS AND PAY GRADES           |              |              |              |                       |
|      |                                    |              |              |              |                       |
|      | <b>POSITION</b>                    | <b>GRADE</b> | <b>UNION</b> | <b>HOURS</b> | <b>#</b>              |
|      | <u>HUMAN SERVICES</u>              |              |              |              |                       |
| 6    |                                    |              |              |              |                       |
|      | Social Worker II Long Term Support | 10           | OPEIU        | 40           | <del>6</del> <u>7</u> |

FURTHER RESOLVED, that these changes shall take effect August 3, 2022;

FURTHER RESOLVED, that Chapter 3.01(6) of the Policy & Procedure Manual be amended to reflect the personnel changes and department totals to be adjusted accordingly.

Dated at Port Washington, Wisconsin, this 3rd day of August 2022.

*VOTE REQUIRED: Majority*

*SUMMARY: Amending Section 3.01(6) of the Ozaukee County Policy and Procedure Manual reflecting the request for one additional Social Worker II Long Term Support position in Human Services.*

HEALTH & HUMAN SERVICES COMMITTEE

## Health and Human Services Committee

### AGENDA INFORMATION SHEET

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|                     |                       |
|---------------------|-----------------------|
| <b>AGENDA DATE:</b> | <b>July 26, 2022</b>  |
| <b>DEPARTMENT:</b>  | <b>Human Services</b> |
| <b>DIRECTOR:</b>    | <b>Liza Drake</b>     |
| <b>PREPARER:</b>    | <b>Liza Drake</b>     |

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**Agenda Summary** Amending Section 3.01(6) of the Ozaukee County Policy and Procedure Manual - Positions & Pay Grades: Human Services Social Worker II Position

#### **BACKGROUND INFORMATION, DESCRIBE MEASURABLE IMPACT ON SERVICES:**

The Human Service Department has seen an increase in Adult Protective Service referrals. Adult Protective Services are set up to aid Elder Adults and Adults-at-Risk who have been abused, neglected, or exploited. Wisconsin Statutes §46.90 (Elder Abuse Reporting System), Chapter 54 (Guardianships and Conservatorships) and Chapter 55 (Protective Service System) define adult protective systems in Wisconsin. This is a required program each County must offer to its residents.

Below is a visual of our referral trends over the past ten years. As you can see, there has been a steady increase in referrals, with referrals more than doubling in the last five years.

| <u>Year</u> | <u>Number of Referrals</u> |
|-------------|----------------------------|
| 2012        | 101                        |
| 2013        | 113                        |
| 2014        | 137                        |
| 2015        | 138                        |
| 2016        | 185                        |
| 2017        | 176                        |
| 2018        | 276                        |
| 2019        | 286                        |
| 2020        | 327                        |
| 2021        | 374                        |

In addition, the urgency and complexity of Adult Protective Services cases are escalating.

Emergency Protective Placements conducted by Adult Protective Services staff increased 40% in the last 4 years climbing from 18 Emergency Protective Placements in 2018 to 30 in 2021.

65+ year olds represent more than 20% of Ozaukee County's current population (Source: US Census Bureau, Population Estimates, July 1 2021, V2021). By 2030, this percentage is expected to increase to 24% - 27% of Ozaukee County's population. (Source: WI DOA Demographics Services, Population Projections, Vintage 2013)

Currently, Adult Protective Services staff are required to investigate all referrals regarding individuals 60+ years old. In February, Senate Bill 395 was passed and signed into law in Wisconsin requiring Adult Protective Services staff to investigate all referrals received regarding 18-59 year olds. Therefore, Adult Protective Services will be required to act and provide follow up to ALL adult referrals received.

With a higher referral rate, growing senior population, increase in complex cases, and requirement to investigate ALL referrals received, the two and a half staff Human Services currently have will not keep up with demand. As a result, follow up visits are delayed and occur farther apart, notes are not entered as quickly as they should be, phone calls are not returned as promptly as we would like, meeting statutory timelines become more difficult and risk factors for burnout of existing Adult Protective Services staff increases.

#### **POSITION ALTERNATIVE ANALYSIS:**

- 1) Do Nothing: There are currently two and a half full-time Adult Protective Services staff. When referrals come in at a rate these two and a half staff are not able to keep up with, other staff are asked to assist with investigations. Unfortunately, this is not a long-term solution. These staff have their own full-time case work to complete.
- 2) Contract out the service: At this point in time this is not a feasible solution. We already have two and a half full-time Adult Protective Service workers on staff, contracting out would create a fragmented system. Our current staff have the ability to gather information from other departmental staff regarding a case. If the position was contracted out gathering this information would not be a smooth process and there could be a delay in the investigative process.
- 3) Increase hours of existing employees, hire part-time, lower classification, shared position, etc: As mentioned earlier, the Department already uses other staff to assist with investigations when needed. Due to an increase in demand on their full-time position, asking these staff to take on additional referrals is not reasonable nor would it be a safe option. Overloading staff would result in decreased quality of their full-time case load and also jeopardizes the integrity of the investigations. There is not currently a part-time position for which the hours could be increased.
- 4) Create new position: The Department would like to add an additional full-time position to the Adult Protective Services Program. This is not a revenue generating position and would be supported by levy.

**FUNDING SOURCE:** This is a levy position. The estimated annual cost is \$93,943. The Department of Human Services is not filling a position in another division and will use these dollars to pay for the additional Adult Protective Services position.

**RECOMMENDED MOTION:** The Department respectfully requests the Committee's approval of a full-time Adult Protective Services Position at Pay Grade 10 effective on the date

of the County Board's approval.

**ATTACHMENTS:**

- APS Worker job description(PDF)

## JOB DESCRIPTION

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                   |                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------------------------------|
| JOB TITLE: <b>Adult Protective Services- Social Worker II</b>                                                                                                                                                                                                                                                                                                                                                                                                                     |                                   |                                                       |
| CLASSIFICATION CODE:                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                   |                                                       |
| DATE:<br><b>05/03/2021</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                        | DEPARTMENT: <b>Human Services</b> | DIVISION: <b>Aging and Disability Resource Center</b> |
| EMPLOYEE GROUP:                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                   | FLSA STATUS: <b>Nonexempt</b>                         |
| PAY SCHEDULE:                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | PAY GRADE: <b>10</b>              | EEO CATEGORY:                                         |
| <p>POSITION SUMMARY: <i>(Describe the general nature and level of work performed by this position.)</i></p> <p>This position investigates reports of abuse, neglect, financial exploitation and self-neglect of elderly and adults at risk. Adult Protective Services workers assess the needs of elderly and adults with disabilities and determines if follow up is needed, including the use of Emergency Protective Services/Placement under Chapter 55 when appropriate.</p> |                                   |                                                       |

**DESCRIPTION OF THE JOB:** *DESCRIBE THE SPECIFIC DUTIES AND RESPONSIBILITIES OF THE JOB AS ACCURATELY AND COMPLETELY AS POSSIBLE, Indicate the approximate percentage of time devoted to each major task or group of related tasks. Identify essential functions of the job with an asterisk (\*) An essential function must meet the following criteria: 1) the reason the position exists is to perform that function, 2) no other employee is available to perform that function, 3) the function is highly specialized, and 4) removing the function would fundamentally alter the job.*

1. Assesses the needs of Older Adults and Adults at Risk who are considered vulnerable due to a disability reported to be abused/neglected or self-neglecting, and assesses the decision-making ability of the vulnerable adult.
2. Provides education, planning, coordination and short-term monitoring of services to vulnerable adults in the community who are at risk and potentially unsafe. Communicates with doctors, nurses, hospital case managers, attorneys, other professionals, family and informal caregivers in order to carry out these functions.
3. Ensures the immediate safety of the individual alleged to be incompetent who is a danger to him/herself through Chapter 55 Protective Services or Protective Placement. Provides a comprehensive report to the Court with recommendations based on the least restrictive setting.
4. Testifies in court proceedings in relation to evaluations of an individual's level of need.
5. Maintains positive working relationships with community service providers and potential elder abuse reporters. Promotes professional awareness and general public awareness of the elder abuse reporting system through individual and group presentations.

6. Participates as a member on the Elder Abuse Interdisciplinary Team. Provides case staffing and works to improve systems issues that impact adult protective services.
7. Other duties as assigned by the supervisor.

**SUPERVISION RECEIVED:** *(Indicate the extent to which work assignments and methods are outlined, reviewed, and approved by others.)*

Adult Protective Services staff report directly to the Adult Protective Services Supervisor. The supervisor makes work assignments and reviews completed work. Parameters of the work are established by WI Statute Chapters 46, 54, 55 and 880, State guidelines, and supervisor input. The worker is responsible to make case decisions in the community that affect the safety and welfare of the vulnerable clients. The worker and supervisor work collaboratively on problem solving case situations and system issues that impact the clients.

**SUPERVISION EXERCISED:** *(List the number and titles of personnel directly supervised. Specify the kind and extent of supervision exercised by indicating one or more of the following: (a) assign duties; (b) outline methods; (c) direct work in process; (d) review completed work; (e) sign or approve work; (f) make hiring recommendations; (g) prepare performance appraisal; (h) take or recommend disciplinary action.*

This position has no supervisory responsibilities.

**JOB REQUIREMENTS:** To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill and ability required. Reasonable accommodations may be made to enable qualified individuals with disabilities to perform the essential functions.

**Education Requirements:**

1. Bachelor's Degree in Social Work or other related Human Service Field, Master's Degree preferred. The ability to be certified as a Social Worker (CSW), Advanced Practice Social Worker (APSW), or Licensed Clinical Social Worker (LCSW) strongly encouraged.
2. Experience Requirements: Two years of experience working in the human services field with elderly and disabled individuals.

**Knowledge, Skills and Abilities:**

1. Ability to understand and to follow directions from supervisors, complying with agency/county directives, state laws, licensing rules and regulations and certification standards that cover individuals, agencies, court orders and program guidelines.
2. Ability to maintain accurate, timely treatment records for each client. Excellent verbal skills are essential to communicate clearly with elderly and at risk individuals as well as other staff members.
3. Ability to read and to understand clinical reports and professional literature.
4. Knowledge of elder and adult at risk issues.
5. Strong written skills are critical when writing Competency Evaluations for the Courts.
6. Ability to utilize a trauma informed perspective when interacting with individuals, co-workers, professional organizations, etc.
7. Excellent interpersonal skills.
8. Good analytical and assessment skills.
9. Knowledge of WI Statutes 46, 54, 55, 880 and criminal statutes that relate to elder abuse.
10. Knowledge of the aging process, family dynamics, and elder abuse theory and practice.
11. Knowledge of medical terms, medications, medical conditions, and their impact on the elderly.
12. Knowledge of finance and banking methods for financial abuse cases.

**WORKING ENVIRONMENT:** *The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job.*

Work is completed in the office, at homes and in community environments. Some home environments may be considered unhealthy and unsafe. Due to the unpredictability of some Adult Protective Services situations, there is an infrequent risk of attack or injury. There may be occasional exposure to firearms and or illegal drugs.

THIS DESCRIPTION DOCUMENTS THE GENERAL NATURE AND LEVEL OF RESPONSIBILITY ASSOCIATED WITH THIS POSITION. IT IS NOT INTENDED TO BE A COMPREHENSIVE LIST OF ALL ACTIVITIES, DUTIES AND RESPONSIBILITIES REQUIRED OF INCUMBENTS. IT IS NOT INTENDED TO LIMIT OR MODIFY THE RIGHT OF ANY SUPERVISOR TO ASSIGN, DIRECT, AND MONITOR THE WORK OF EMPLOYEES UNDER SUPERVISION.

Approvals:

Department Head: \_\_\_\_\_

Date: \_\_\_\_\_

Human Resources Director: \_\_\_\_\_

Date: \_\_\_\_\_

**Health and Human Services Committee****AGENDA INFORMATION SHEET**

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**AGENDA DATE:** July 26, 2022  
**DEPARTMENT:** Human Services  
**DIRECTOR:** Liza Drake  
**PREPARER:** Brad Mueller

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**Agenda Summary** HS/Aging/ADRC Financial Report

**ATTACHMENTS:**

- HS Aging ADRC Comm Rpt June 22 (PDF)

### Profit and Loss Statement ACTUAL TO AMENDED BUDGET

Attachment: HSAgingADRCCommRptJune22 (HSAging/ADRC Financial Report - June 2022)