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LEGAL ISSUES



County Board **RULES**

The Foundation for Well-Run Meetings

—Andrew T. Phillips, von Briesen & Roper, s.c.

After the April elections, Wis. Stat. § 59.11(1)(c) requires the county board to meet on the third Tuesday of April to organize and transact business. The organizational meeting provides an opportunity for counties to elect leadership and establish the rules that will govern the board for the next two years. This Issue Focus will address a component of that biennial county organizational process critical to the effective operation of the county board – the county board rules.

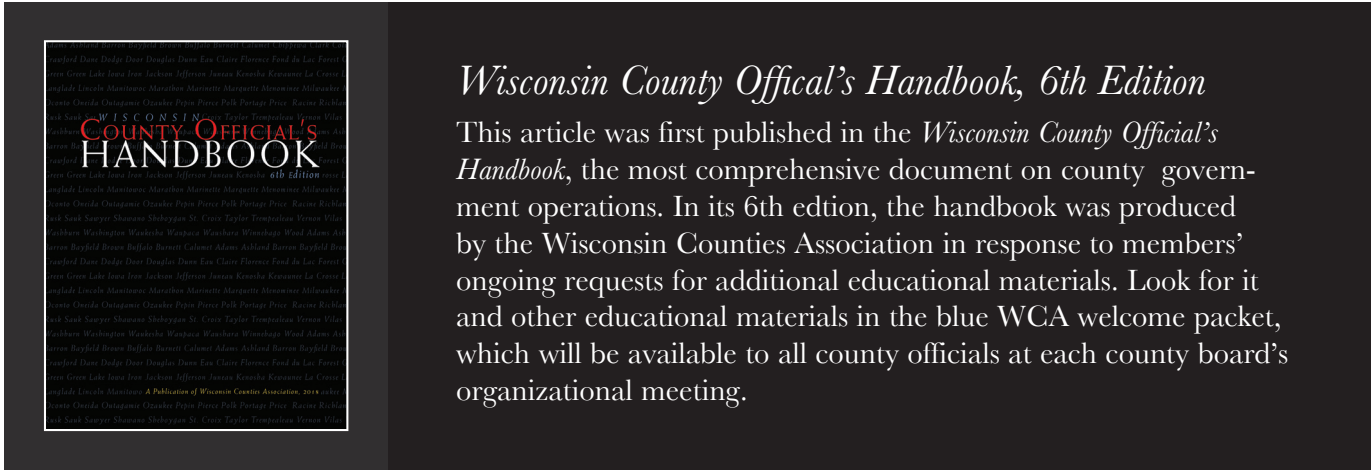
COUNTY BOARD RULES

State statutes, local rules, and *Robert's Rules of Order* all provide guidance on how county business is conducted. There is no statute that requires counties to adopt county board rules. However, there are a few statutes that require county boards to conduct business in a specified manner. For example, Wis. Stat. § 19.81, *et seq.*, Wisconsin's Open Meetings Law, requires that meetings of county boards and committees of the board be open to the public consistent with certain

notice requirements. Beyond Open Meetings Law requirements, other statutes require that county boards maintain certain committees, such as the county highway committee, and specify committee membership and the method for appointing members to the committee. Still other statutes identify required county board officers and the method for electing those officers, such as board chair. With the exception of these relatively few required procedures, counties are free to organize and conduct business in a manner similar to any other deliberative assembly.

PROCESS

To begin the process of reviewing and suggesting modifications to the current board rules, the current board or a committee should review the rules and propose amendments, as necessary, prior to the organizational meeting. In addition, counties should consider codifying the rules in ordinance such that they become a permanent feature of the county code.



Wisconsin County Official’s Handbook, 6th Edition

This article was first published in the *Wisconsin County Official’s Handbook*, the most comprehensive document on county government operations. In its 6th edition, the handbook was produced by the Wisconsin Counties Association in response to members’ ongoing requests for additional educational materials. Look for it and other educational materials in the blue WCA welcome packet, which will be available to all county officials at each county board’s organizational meeting.

CONTENT

There are three basic components to a set of county board rules: (1) county board officers; (2) organization of the county board; and (3) county board rules of procedure. Common drafting considerations for each of these three categories are discussed below.

COUNTY BOARD OFFICERS

The statutes require counties to elect a chair and vice chair. However, counties should consider whether additional officer positions, such as 2nd vice chair or sergeant-at-arms, are desirable. A 2nd vice chair is beneficial when the chair and vice chair are absent or they both wish to speak on an issue and need to step down as the presiding officer. Once the officer positions are established, any rules and duties relating to the particular office should be codified.

The statutory duties of the board chair and vice chair are contained in Wis. Stat. § 59.12; however, the statute only provides the minimum duties. Counties are free to add to those duties at the discretion of the board. For example, the rules could specify whether the board chair is an automatic member of a committee or committees, whether the board chair is able to fill in for absent committee members at committee meetings, how the vice chair assumes chair responsibilities in the absence of the chair, and what happens

in the event the chair seat is vacated. In addition, the rules should specify that the board chair maintains the right to vote not just on tie votes and whether the board chair makes committee appointments, serves as chair of other committees, and sets the county board agenda.

Some of the duties of a board chair as described in Wis. Stat. § 59.12 are as follows:

- Perform all duties required of the chair.
- May administer oaths to persons required to be sworn.
- Countersign all ordinances of the board.
- Preside at meetings and when directed by ordinance.
- Countersign all county orders.
- Transact all necessary board business with local and county officers.
- Expedite all measures resolved upon by the board.
- Take care that all federal, state, and local laws pertaining to county government are enforced.

Some of the duties of the vice chair as described in Wis. Stat. § 59.12 are to perform the chair’s duties when the chair is unable due to disability or absence, as well as attend official events representing the county in the absence of the chair. Other rules to consider are whether the vice chair should receive the chair’s salary if the chair is disabled or incapacitated for any

length of time. Additionally, in the event of death or resignation, if the vice chair becomes chair or whether a special election is held.

Similarly, if a county establishes the position of sergeant-at-arms, the board rules should provide guidance on the powers of the sergeant-at-arms. A sergeant-at-arms may be used to gather members for the start of a meeting, remove unruly members of the board or public as directed by the chair, notify board members or the public of special events or procedures, contact department heads, or distribute literature.

A process and rules for removal of board officers should also be stated. A motion filed with the clerk, introduction of a resolution, majority versus two-thirds vote of the members, and cause such as inefficiency, neglect of duty, official misconduct or malfeasance in office are all points to consider. However, the attorney general opined that a board chair may be removed at will by a simple majority of the members. The process for removal of committee officers or committee members, if allowed, should specify the responsible party – be it the board, board chair, or committee.

The second part of the rules relates to how the board is organized.

Standing committees. These are the “permanent” board committees. In some cases, the statutes require that the board establish certain committees, e.g., the county highway committee. In other instances, the board may want to establish a permanent committee even if not required by statute, e.g., the finance committee. Some of the duties and responsibilities may include:

- Provide policy oversight.
- Provide policy direction and make program recommendations.
- Recommend policy and planning initiatives.
- Monitor certain activities.
- Act as a liaison.
- Advise the county board.

The rules should specify:

- The number of members, odd number if possible, and how members are appointed whether it is the board chair, board election, or a committee on committees;
- If members are allowed to serve on multiple committees;
- The officers of each committee and whether they are elected by the committee or appointed by the chair;
- If the board chair is a member, ex-officio member, voting member or allowed to fill in for absent members;
- The removal process of officers and members, whether by the board chair, the county board or the committee, by a majority or super majority and with or without cause; and
- The authority of the chair to preside at meetings, set agendas, schedule meetings, and make reports on behalf of the committee.

All of the board’s standing committees and each committee’s duties or charge should be contained within the rules.

Other committees. The rules should specify how additional “ad hoc” committees are created and populated. In addition, the rules should specify that “ad hoc” committees are automatically discharged once the purpose for the committee’s creation is satisfied.

Committee procedure. All committees should follow a uniform set of procedural rules. The procedural rules should likely address: (a) meeting minutes; (b) staff involvement; (c) budget involvement; (d) process for introducing and considering items of business; (e) responsibility for the agenda (coordinate posting and notice form with county clerk); (f) committee officer elections or appointment and removal; (g) any rules for “ex officio” members; (h) meeting schedule; (i) ability to call special meetings and similar matters.

LEGAL ISSUES

Public appearances. While the Open Meetings Law allows the public access to public meetings, it does not require public participation in meetings. Certain matters, such as matters related to zoning, require public hearings. In other cases, committees will allow public comment on matters appearing on the meeting agenda. The board rules should specify the process for public hearings and public comment. Common considerations for public participation include the following:

- Should the public be limited to speaking to a specific agenda item?
- Should members of the public be encouraged to speak at the committee level?
- Specify time period, e.g., three, four, or five minutes.
- Clarify if board members are allowed to speak as a matter of right at committee meetings.
- Specify that board members should not be allowed to discuss or participate in debate, if not a member of the committee.
- Should members of the public be required to register?
- Are members allowed to ask questions?
- Are the rules different for a public hearing versus a public comment?

Meeting Minutes. It is important to coordinate with the county clerk’s office on the form, content, and responsibility for minutes given the clerk’s responsibility under Wis. Stat. § 59.23. While the county clerk is responsible for the minutes, the clerk may delegate functions to staff related to taking and filing the minutes.

PROCEDURAL RULES

The final section of the board rules relates to how the board conducts its business.

Board Meetings. The board rules should specify the following as it relates to meetings of the county board:

- Specify meeting dates and times.
- Specify if the chair may cancel meetings or call special meetings.
- Allow the chair to designate special budget meetings during the budget process with no other business.
- Specify rules for committee of the whole.
- Allow the chair to schedule public hearings.

Form of Resolutions. The transaction of official business should be in ordinance or resolution format. All resolutions and ordinance amendments should be sponsored by a supervisor and allow for co-sponsors. Drafting of certain resolutions and ordinances can be limited to certain departments such as the corporation counsel preparing ordinance amendments, and the finance director preparing budget amendments. The rules should define the introduction process; i.e., submit to county clerk, board chair, committee, by certain date, etc. Likewise, if there is a preferred review process for the corporation counsel or finance director, that process should be codified.

Referral of Resolutions. Resolutions and ordinance amendments should proceed before a committee before going to the county board. The rules could authorize the chair or committee to refer a resolution to an appropriate standing committee, board, or commission. The matter’s primary sponsor should be invited and allowed to speak at the committee meeting. Board Action on Resolutions. The rules should define the process for placing resolutions and ordinance amendments on the agenda once the committees have acted. A motion before the board could be the committee recommendation (there is no need for formal motion or second). Consider requiring all amendments to resolutions and ordinance amendments to be in writing.

Seating Arrangements for Board Meetings. The rules should designate the process for supervisor seat selection. Likewise, the rules should designate seating for the public, press, staff, corporation counsel, county clerk, administrator, department heads, and a place for the public to address the board.

Agenda - Order of Business. The rules should specify the order of business for all county board meetings. The order of business could include:

- Call to order.
- Roll call.
- Pledge of Allegiance.
- Special matters & announcements.
- Approval of bills & accounts.
- Approval of county board minutes.
- Consent calendar.
- Reports on zoning petition.
- Motions from previous meetings.
- Ordinances.
- Award of contracts.
- Resolutions.
- Special order of business.
- Adjournment.

Conduct at County Board Meetings. This is a very important part of the rules as it establishes the foundation for an orderly, deliberative process. The rules should specify that:

- Committees should not meet when the board is in session.
- Supervisors, visitors, staff, and others shall at all times conduct themselves in a respectful manner.
- No conversation is allowed on the board floor or in the visitor’s section.
- All electronic devices shall be kept in the silent mode.
- Supervisors shall use county-provided electronic devices in accordance with policy.

- A designee should be chosen to distribute literature – supervisors, county board staff, sergeant-at-arms, county clerk, administrator, etc. – not the general public.

County Board Voting. The rules should indicate that any supervisor should be able to request a roll call vote as long as it is done prior to the next order of business. The vote should be recorded in the minutes. Roll call votes should, if possible, be taken in a rotating fashion per meeting so that the same supervisor is not always casting the first ballot. Supervisors should be in their seats when voting.

Defining a “Session.” A session determines when business can be brought back before the assembly. A session may be one meeting, one year, the term of supervisors, or as determined in the rules.

Parliamentary Procedure. The rules should specify the latest edition of Robert’s Rules of Order, Newly Revised (11th ed.) as the rules governing the board. In addition, to the extent the board adopts rules that vary from the procedure in Robert’s Rules (as is expressly allowed in Robert’s Rules), those variations should be codified in the board rules. It is also a good idea to provide basic information concerning Robert’s Rules within the board rules as an easy reference for supervisors.

CONCLUSION

Codifying county board rules may seem like a daunting task. However, by breaking the task into the sections identified above, the task becomes much more manageable. In addition, there are a variety of resources available to assist counties in the process. If you would like additional information relating to board rules or the process for adopting board rules, please do not hesitate to contact the authors at 1.866.404.2700.