



Wisconsin Counties Association
ANNUAL CONFERENCE
& Exhibit Hall **2022**

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**Roles and Responsibilities for County
Board Chairs and Supervisors**

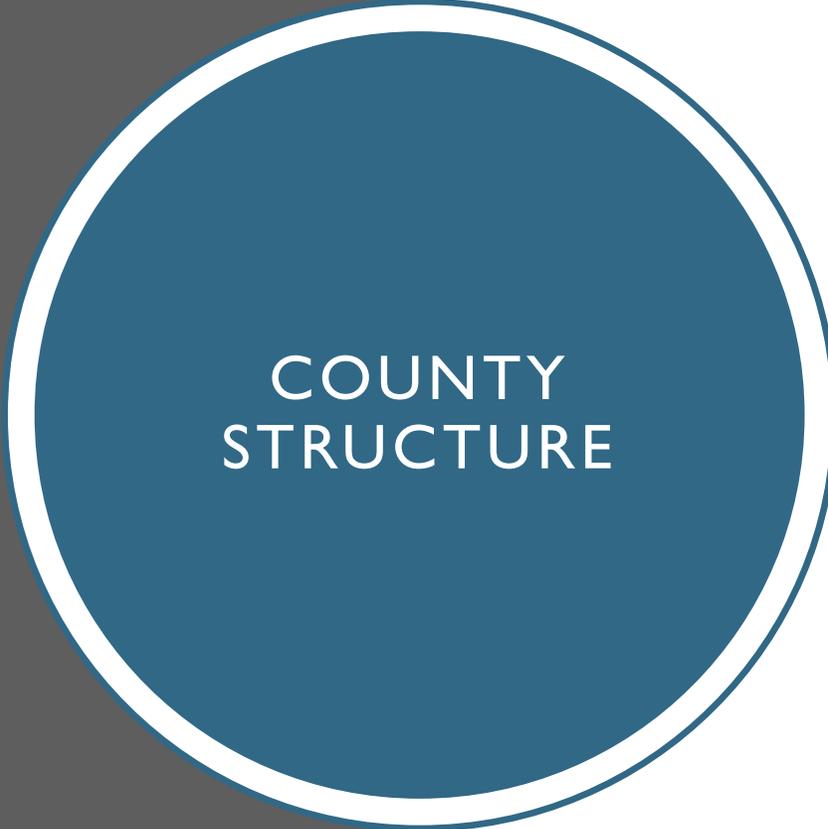
**ROLES AND RESPONSIBILITIES FOR
COUNTY BOARD CHAIRS AND
SUPERVISORS (INCLUDING ETHICS
OVERVIEW)**

2022 WCA Annual Conference

September 19, 2022

Attorney Jacob Curtis

ROLES AND RESPONSIBILITIES



COUNTY STRUCTURE

County authority comes from Chapter 59

- Municipal authority comes from the Constitution

Counties are a body corporate that can sue and be sued

- Does that mean that counties resemble private corporations, in business structure?

Powers are limited by state statute

- Administrative Home Rule (Wis. Stat. § 59.03)

Counties are governed by a board of supervisors

- Board size ranges from 7 - 38



ADMINISTRATIVE
HOME RULE

- Sec. 59.03(1) - Every county may exercise any organizational or administrative power, subject only to the constitution and to any enactment of the legislature which is of statewide concern and which uniformly affects every county.



SELF-ORGANIZED
COUNTIES

- Self organization provides more flexibility on the manner in which the board of supervisors may operate
 - Use of staggered terms
 - Compensation of supervisors, including mileage and limitations on compensation
 - Filling county supervisor vacancies
 - See Wis. Stat. § 59.10(3) (for counties with less than 750,000 population and more than one town).

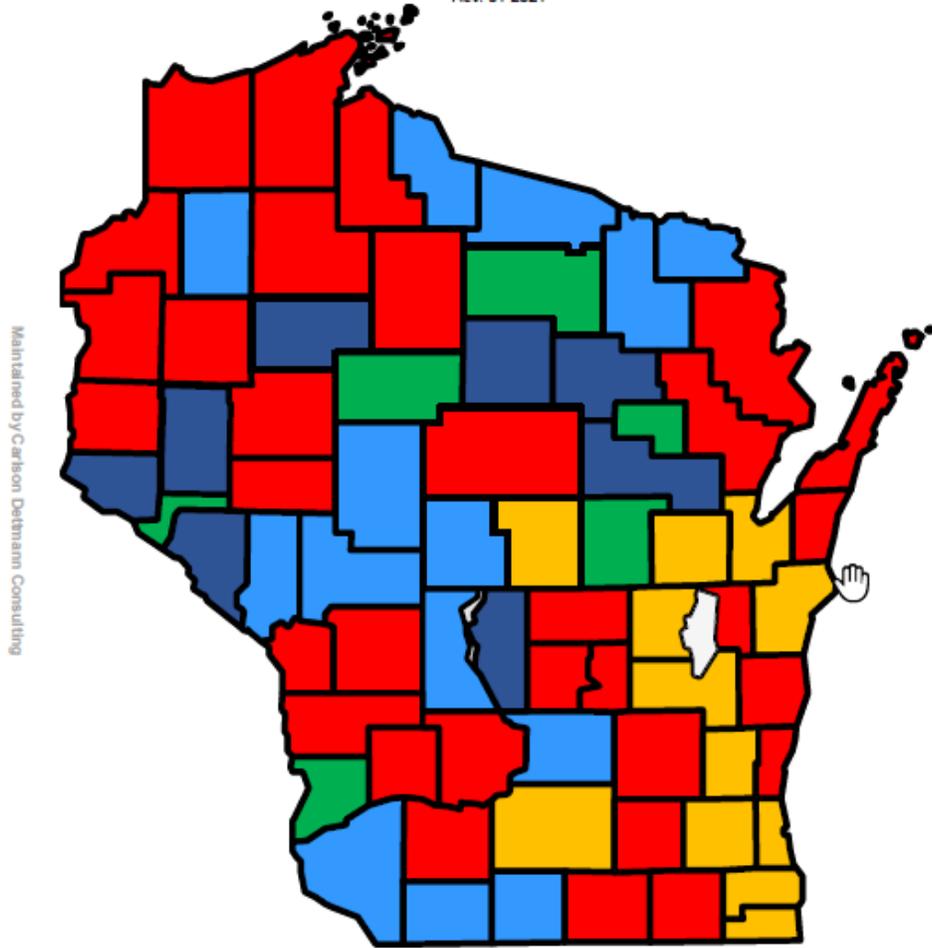


FORMS OF
COUNTY
GOVERNMENT

- Three types
 - County Executive
 - County Administrator
 - County Administrative Coordinator

County Form of Government

Rev. 01-2021



Maintained by Carlson Detmann Consulting



Full Time Dedicated Positions: 52 Counties

12 Elected County Executives (CE)

33 Appointed County Administrators (CA)

7 Appointed Administrative Coordinators (AC)

Dual Role Positions: 20 Counties

10 AC/County Clerks

4 AC/Board Chairs

3 AC/Human Resources

1 AC/Finance Director

1 AC/Human Services

1 AC/Highway Commissioner

COUNTY
EXECUTIVE
(S.59.17)

Appoints and supervises department heads
subject to board confirmation

Appoints members to Boards and Commissions

Submits an annual budget to the county board

Has veto authority

- may veto ordinances and resolutions
- has broader veto authority than Governor
- county board can override veto with 2/3 vote

COUNTY
ADMINISTRATOR
(S.59.18)



Chief administrator of the county



Responsible for coordinating all administrative and management functions not vested by law with other officers



Appoints and supervises Department Heads (board confirmation)



Appoints members to boards and commissions (board confirmation)



Submits annual budget



ADMINISTRATIVE
COORDINATOR
(S.59.19)

“The administrative coordinator shall be responsible for coordinating all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.”

Similar to county administrator but does not have appointment authority and coordinates rather than supervises.

Some counties meet the requirement by appointing an elected official.



COUNTY BOARD SUPERVISORS

Supervisors serve primarily a legislative function

The legislative function is largely limited to policy making, law making, budgetary approval and cooperative decision making

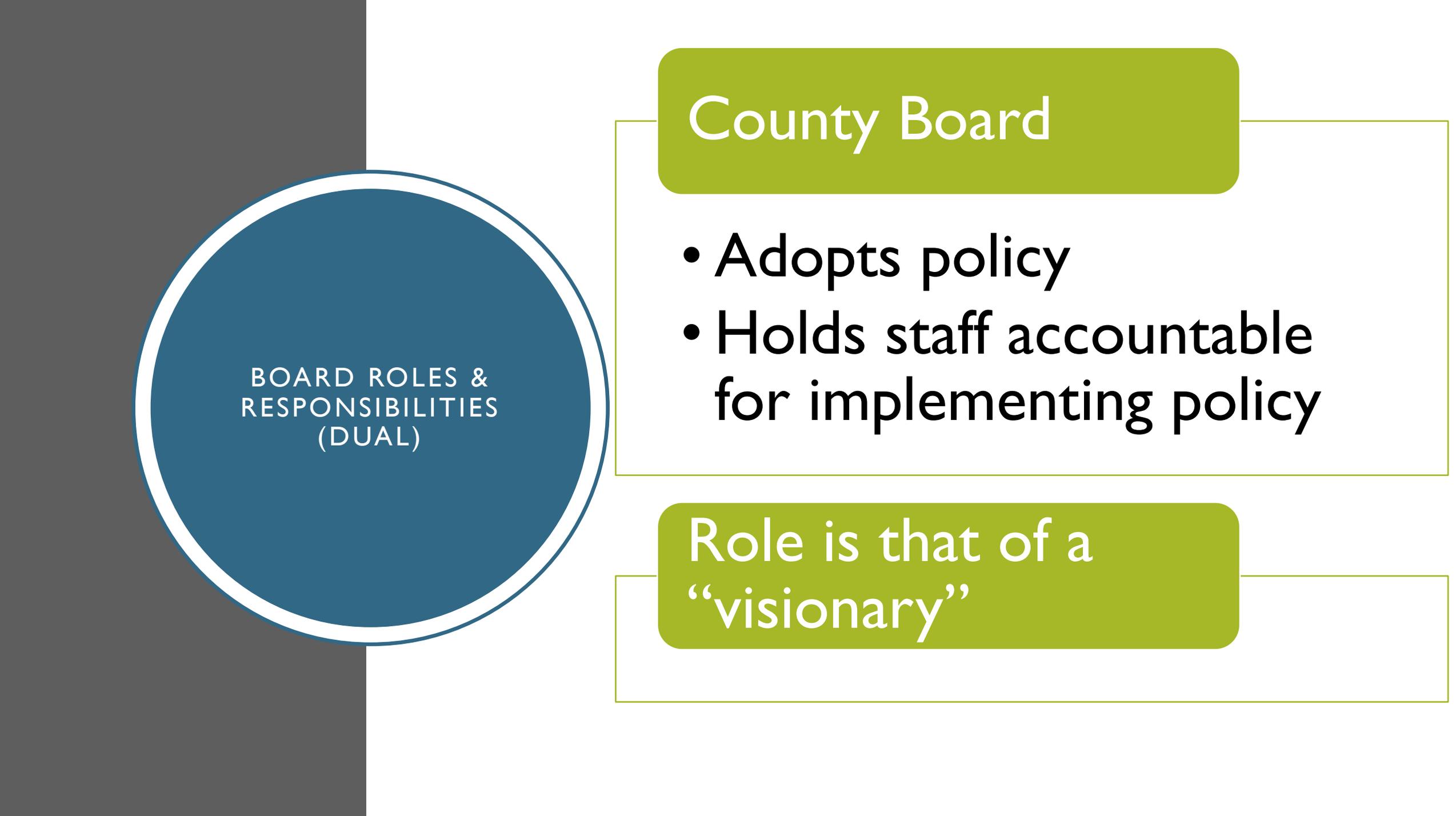
No operational control resides with individual supervisors

A supervisor's authority is collective versus individual

When appointed to a committee chair position, a supervisor has the authority to set the agenda for committee meetings, preside at meetings and make reports and recommendations on the committee's behalf

So do "supervisors" actually "supervise" anything?

Thank you legislature for creating confusion with the name!

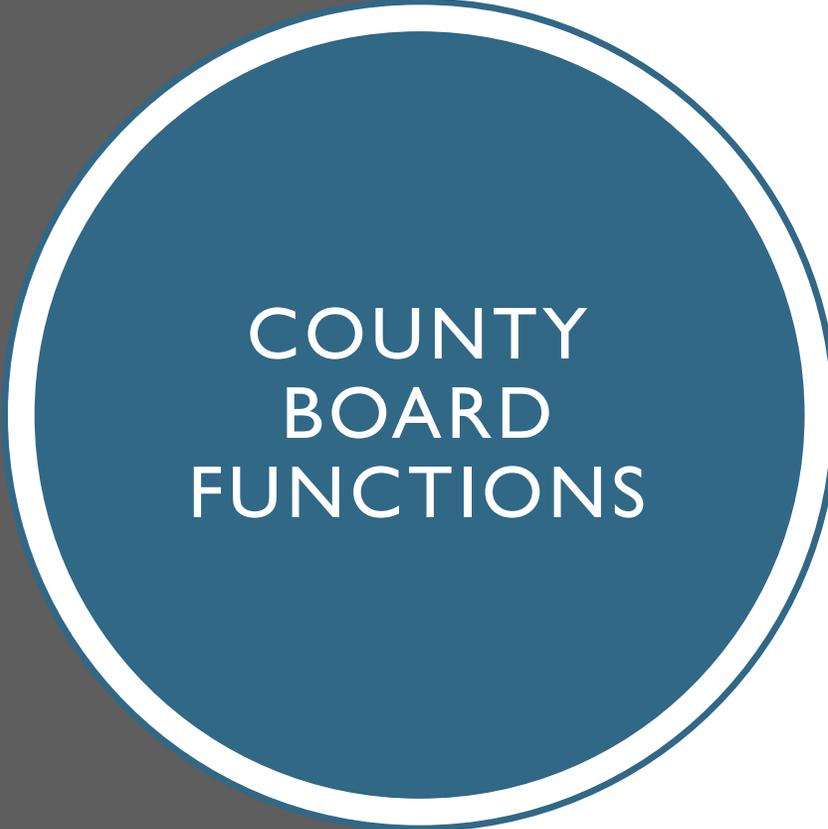


BOARD ROLES &
RESPONSIBILITIES
(DUAL)

County Board

- Adopts policy
- Holds staff accountable for implementing policy

Role is that of a
“visionary”



COUNTY
BOARD
FUNCTIONS

Involve

Involve, represent and be accountable to the public

Determine

Determine services to be provided

Adopt

Adopt budget – levy taxes

Regulate

Regulate within statutory authority

ENACT

Primary function is to ENACT POLICY



COUNTY BOARD CHAIR

- Presides over meetings of the county board of supervisors
- Administers oaths
- Countersigns all ordinances
- Commonly acts as spokesperson for the county board
- Provides guidance and direction on moving issues through the board
- When directed by ordinance, “shall countersign all county orders, transact all necessary board business with local and county officers, expedite all measures resolved upon by the board and take care that all federal, state and local laws, rules and regulations pertaining to county government are enforced.”

Wis. Stat. §59.12



COUNTY
BOARD
VICE
CHAIR

Board **shall** elect a Vice Chair who, “in case of the absence or disability of the chairperson shall perform the chairperson’s duties.”

Board **may** elect a Second Vice Chair who, “in case of the absence or disability of the chairperson and vice chairperson shall perform the duties of the chairperson.”

See Wis. Stat. § 59.12(2).



STANDING COMMITTEE FUNCTIONS

- County Board Chair typically appoints committee members subject to board confirmation (Wis. Stat. § 59.13)
 - “The board may by resolution designating the purposes and prescribing the duties thereof and manner of reporting, **authorize their chairperson to appoint ... committees** from the members of the board, and the committees so appointed shall perform the duties and report as prescribed in the resolution.”
 - “The power of appointment, if not exercised by the board, **lies in the chairman** and cannot be delegated to a committee of the board.” 61 Op.Att’y Gen. 214, 218 (Ops.Wis.Atty.Gen. 1972)
- Policy oversight for departments, offices and other entities
- Monitor performance
- Review and make budget recommendations
- Draft ordinances and resolutions
- In other words, assist in POLICY DEVELOPMENT

WHAT IS THE COMMITTEE INVOLVEMENT?



Counties are structured so that the committees do much of the preliminary work, and then make recommendations to the full board



Committees have the knowledge, expertise and a better perspective of what is needed, what is achievable, how much it would cost (or save) to implement the new strategies and goals



Committees know who in the community their departments and programs serve



STAFF ROLES &
RESPONSIBILITIES
(DUAL)

- Have an obligation to carry out duties in a manner consistent with the policy direction of the board
- Make recommendations and give professional advice
- Do not make policy other than internal as authorized



ADMINISTRATION
(DEPARTMENT
HEADS & STAFF)

Implementation of policies and strategies

Shorter term

Day to day operations

Related to smaller functions

Addresses department or individual issues

Requires attention to detail

Requires specialized training

COUNTY STAFF COMPARED TO COUNTY BOARD OF SUPERVISORS

STAFF

Education
Experience
Background checked
Bonded
Professionally current
Professional associations

BOARD

Elected by people
Local connection

POLICY VS. ADMINISTRATION



Policy (Board) = “What” and “Why”



Administrative/Operations (Staff) = “Where,”
“When” and “How”

POLICY VS. ADMIN/OPS

- Policy
 - “What” – Will the county establish a hiking trail system?
 - “Why” – Will the system benefit the county?
- Admin/Ops
 - “How” – Who will build and maintain the system?
 - “When” – What is the timeframe for implementation?
 - “Where” - Where will the system need to be maintained?



LEADERSHIP ROLES

Department heads (non-elected) have the leadership role in their departments within the guidelines of the policies and procedures set by the board of supervisors and clarified through directives from the executive or administrator

Individual county board supervisors have no management or leadership role outside of committees and commissions; their authority is collective as a member of the board.

HOW OUR COURTS VIEW THE DISTINCTION BETWEEN POLICY AND ADMINISTRATION

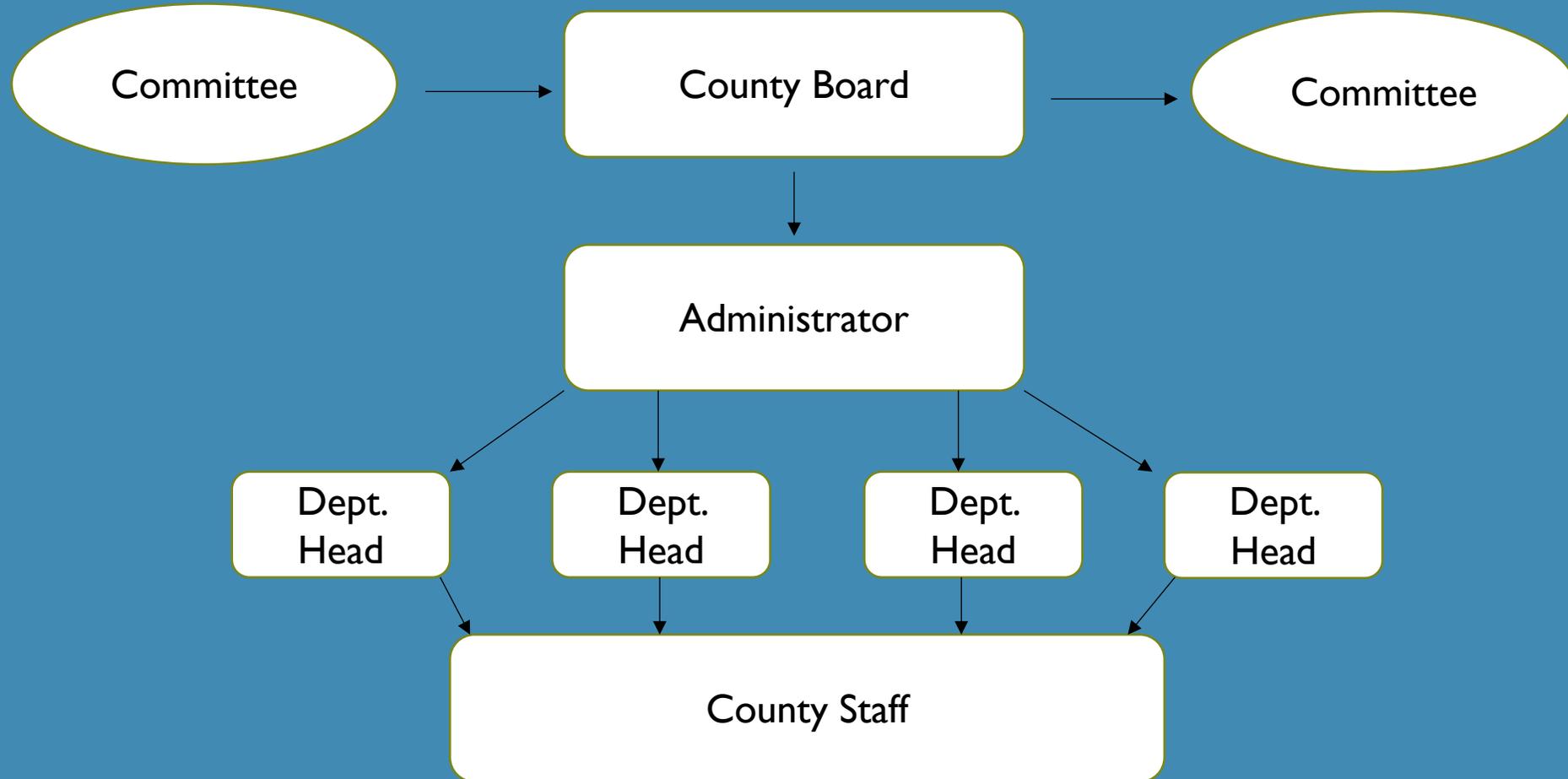
- The county board's function is primarily policy making and legislative, while the county executive functions as an administrator and manager. See, e.g., 80 Op. Atty Gen. 49 (1991). Policy has been defined as "a high-level overall plan embracing the general goals and acceptable procedures esp. of a governmental body." *Webster's New Collegiate Dictionary* 890 (1977). "Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them, or appoint the agents charged with the duty of such enforcement." See 2A MCQUILLIN, MUNICIPAL CORPORATIONS § 10.06 at 311 (3d ed. 1996). "The crucial test for determining what is legislative and what is administrative has been said to be whether the ordinance is one making a new law, or one executing a law already in existence." *Id.*

Schuette v. Van De Hey, 205 Wis.2d 475 (Ct.App. 1996).

WHAT HAPPENS WITHOUT DISTINCTION BETWEEN POLICY AND ADMINISTRATION?

- Time spent on the trivial
- Reading reams of documents
- Long-running meetings that accomplish little
- Committees that are window dressing for what staff want to do
- Meddling in administration
- Staff in control of board agendas
- **Reactivity vs. proactivity**
- Executive/Administrative Committee serving as the de facto Board
- Confusion about what is going on
- Rubber stamping or meddling
- No incisive way to evaluate the Executive/Administrator/Administrative Coordinator

WISCONSIN COUNTY ORGANIZATIONAL CHART (FOR COUNTIES WITHOUT EXEC)



WHERE DO CONSTITUTIONAL OFFICERS FALL ON THE ORG CHART?

Clerk of
Courts

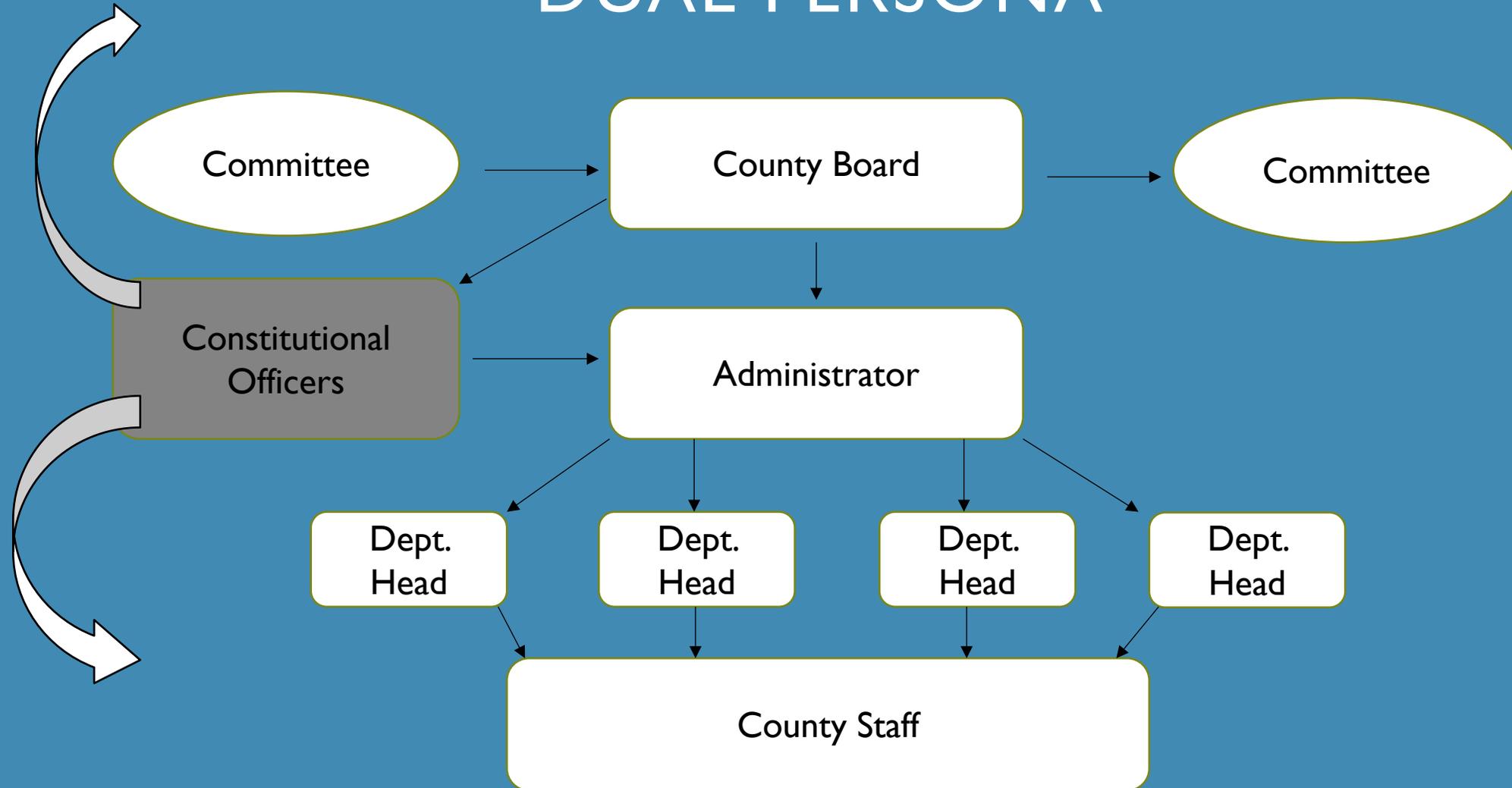
Sheriff

Treasurer

Register of
Deeds

Clerk

THE CONSTITUTIONAL OFFICER “DUAL PERSONA”





WORKING
TOGETHER
AS A GOAL

- Between Board Members and the Administrative Team
 - Know your job and try not to interfere with that of the administration.
 - Devote the time needed to do a good job. Read the background materials the administration prepares.
 - Admit what you don't know.
 - Do not jump to conclusions; instead, hear and weigh all the facts.
 - Don't make promises outside board meetings, not only for legal reasons, but also out of respect for the ethics of the situation and regard for the other board members, the administration and employees.
 - Listen to what your constitutional officers and employees have to offer and let them know you are listening.
 - If someone complains to you about a member of the administration, listen but do not agree. Being supportive of the administration shows that you have confidence in yourself and in the county management team. If the complaint is serious, ask the person to put it in writing and ask the board as a whole to analyze it in light of the appropriate committee structure.



ETHICS
FOR
LOCAL
PUBLIC
OFFICIALS

- No local public official may use his or her public position or office to obtain **financial gain** or **anything of substantial value** for the private benefit of:
 - Himself or herself
 - His or her immediate family
 - An organization with which he or she is associated

ETHICS: INFLUENCE AND REWARD



3 Element Test



No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly:



Anything of Value



If it could reasonably be expected to **influence** the local public official's vote, official actions or judgment, or could reasonably be considered as a **reward** for any official action or inaction on the part of the local public official



ETHICS: PAY TO PLAY

- “No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon consideration that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any committee registered under ch. 11, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.”



ETHICS:
CONFLICT
OF
INTEREST

- No local public official may:
 - Take any official action **substantially affecting** a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a **substantial financial interest**
 - Use his or her office or position in a way that produces or assists in the **production of a substantial benefit**, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated



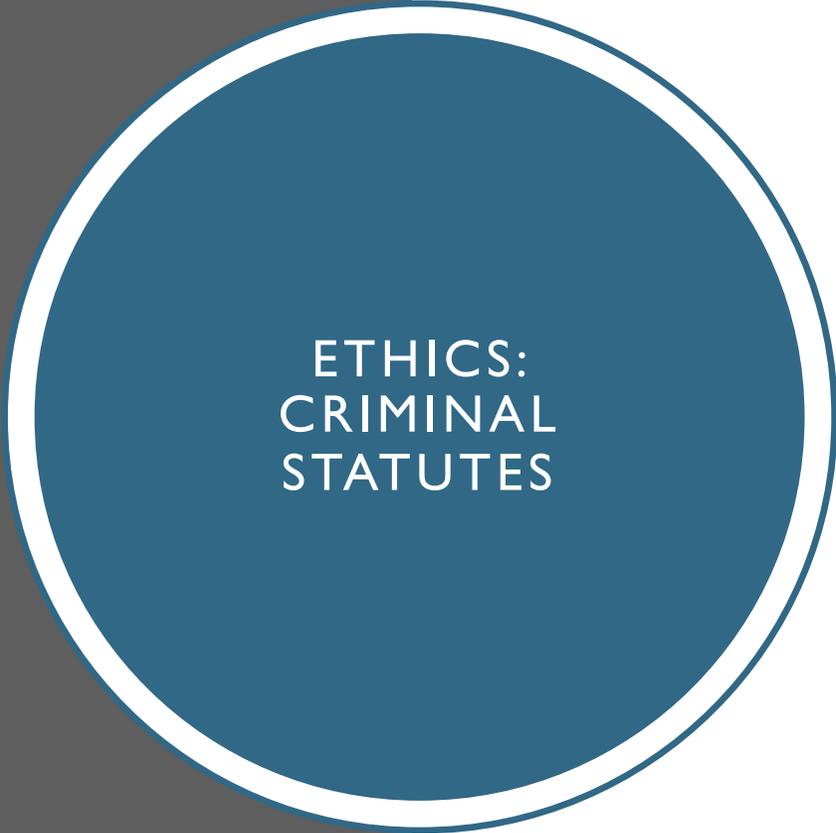
ETHICS:
CONFLICT
OF
INTEREST

- Interpretive exception:
 - However, the official may participate in the action “even though the action will affect the official or an organization with which the official is associated” as long as:
 - The official's action affects a **whole class** of similarly situated interests;
 - Neither the official’s nor the business’ or organization’s interest is significant when compared to all affected interests in the class; and
 - The effect of the official’s actions on the interests of the official or of the related business or organization is **neither significantly greater nor less than upon other members of the class.**



ETHICS: ENFORCEMENT

- Enforced “in the name and on behalf of the state by action of the district attorney or any county wherein a violation may occur, upon the **verified complaint of any person.**” Wis. Stat. 19.59(8)(a).
- Avoiding Liability Through Advisory Opinions
 - Wis. Stat. 19.59(5)(a) – an individual may request an advisory opinion
 - Doing so insulates the official from liability under the Ethics Code **IF THE OPINION IS FOLLOWED**
 - Must be directed to the local county ethics board if there is one; if not, the county corporation counsel



ETHICS:
CRIMINAL
STATUTES

- **Wis. Stats. 946.13 – Private Interest in Public Contracts**
 - *Public officials or employees may not, in their private capacity, negotiate, bid for, or enter into a contract in which she has a private pecuniary interest, direct or indirect, if at the same time she is authorized or required by law to participate in her capacity as such officer or employee in making of that contract or to perform in regard to that contract, some official function requiring the exercise of discretion on her part*
 - *Public officers or employees may not participate in the making of a contract in her capacity as an officer or employee, in which she has a private pecuniary interest, direct or indirect, or performs in regard to the contract, some function requiring the exercise of discretion*



ETHICS:
CRIMINAL
STATUTES
EXAMPLES

- Examples of the statute's application:
 - County board member who owns a business with which the county contracts for goods and services;
 - County board member sells land to the county, owned by a partnership in which the board member has an interest, for purchase price in excess of the statutory amount.



ETHICS:
CRIMINAL
STATUTES
EXCEPTION

- Primary exception to the statute:
- Contracts in which any single public officer or employee does not receive more than \$15,000 a year from the state or political subdivision. Wis. Stat. s. 946.13(2)(a)

ETHICS:
CRIMINAL
STATUTES SMELL
TEST

Will an official action on my part possibly result in private benefit to me, my immediate family or an organization with which I am associated?

Will the use of my staff or the public facilities benefit me in my private capacity?

Am I using public time, resources or facilities for my personal gain?

KEY POINTS TO REMEMBER

Counties are a creature of the State. Counties can only do what the Statutes and Constitution allow.

County Boards are to serve as a legislative body which sets policy, approves annual budgets and makes cooperative decisions.

County Boards work most effectively when utilizing a strong committee system.

County committees do much of the preliminary work prior to making recommendations to the full board. They monitor performance, review and develop budget recommendations, and draft ordinances and resolutions.

Individual county supervisors have no management or leadership role outside of county committees or commissions.

County administration and department heads are to implement the policies and procedures of the Board.

Micromanaging stifles productivity of county operations.

The board & administrative team working cohesively & cooperatively provides the best chance of success in meeting the needs of county residents.



QUESTIONS?
COMMENTS?

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