



# Good Governance Manual



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**Municipal Official Orientation Manual**  
**A Guide for Elected and Appointed Public Officials in the City of Whitewater**

**A Welcome to Public Officials**

Welcome to the world of public service. As a newly elected or appointed official in the City of Whitewater, there is much to learn about the inner workings of city government and the city organization as a whole. However, do not be intimidated; any effort you put forward in learning the ins and outs of municipal government operations will be greatly rewarded through the positive impact you will be able to make on the Whitewater community. Citizenship demands the shouldering of civic responsibility by all those who would preserve the freedoms we all enjoy. By virtue of your appointment, you have become an example of true citizenship for your peers in the Whitewater Community.

While government is often thought of as redundant or inefficient, good government actually makes all our lives better by preserving a sure foundation on which to build our families, businesses, and communities. By giving of your time and talents to benefit your community, you will serve as a positive example to your fellow community members, but you will also have the opportunity to leave a valuable legacy for those that will follow after you.

This manual has been prepared to aid you in gaining a basic understanding of some of the fundamentals of conduct and operations within city government. Please feel free to refer to this manual often. City ordinances and city staff can also be valuable resources in helping to guide you in your efforts to serve the community.

Welcome and congratulations on your new role as a public official!

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**City of Whitewater  
Public Official Code of Conduct  
Good Conduct for Effective Governance**

**Statement of Purpose**

It is the goal and expectation of the City of Whitewater that all public officials (elected or appointed) strive to uphold, exhibit, and promote civil and ethical conduct in public forums and maintain the highest standards of personal conduct, integrity, truthfulness, and fairness in carrying out their public duties. To this end, the following code of conduct has been developed to help illustrate the characteristics public officials are encouraged to emulate while in office.

**Code of Conduct for Public Officials**

As a representative of the City of Whitewater, public officials are encouraged to help strengthen the community by building public trust, encouraging open dialogue, maintaining transparency and actively sharing ideas and opinions with others in thoughtful and considerate ways. The following list of behaviors and practices helps to illustrate the high standards expected of those in public office.

1. **Be Informed:** Endeavor to read the packet material provided before each meeting, keep informed on all local, state and national developments of municipal significance, and arrive at each meeting prepared to conduct City business in a meaningful manner.
2. **Pay Attention:** Strive to be aware of others and sensitive to the immediate context of actions taken.
3. **Listen Closely:** Strive to understand other points of view, to seek first an understanding of what other individuals or groups may have to say before making any final decisions related to business being conducted.
4. **Be Inclusive:** Welcome and encourage participation of all parties involved in the discussion on any issue, excluding none.
5. **Avoid Gossip:** Discourage and avoid the spread of gossip, which can undermine the public process.
6. **Be Agreeable:** Actively look for opportunities to agree on community issues and in all other cases, be civil and cordial, agreeing to disagree without being disagreeable.
7. **Show Respect:** Show respect for the viewpoints of others and refrain from abusive conduct, personal charges, derogatory remarks or verbal attacks upon the character, actions, or opinions of others, whether they be elected or appointed officials, city staff, or the public. Avoid pursuing any conduct or action calculated to embarrass another public official or any member of the public. Praise in public and reprimand in private. When debating or commenting in a meeting, focus on the issue and avoid negative comments regarding the groups or individuals involved.
8. **Be Honest and Transparent:** Practice and encourage full and open disclosure by participating openly and transparently in meetings and activities as required by law. Practice and encourage this same openness by providing full explanations of the intent and motives behind actions to fellow board or committee members. Refrain from withholding or concealing any information or matter in which fellow committee members should be concerned.

9. **Maintain Confidentiality:** Respect and maintain the confidentiality of information that cannot be disclosed (i.e. information from a closed or executive session) by not divulging said information at any time while outside of a closed or executive session. In all ways protect and maintain the security of confidential records.
10. **Demonstrate Proper Meeting Etiquette:** Observe proper decorum and behavior in meetings and refrain from interrupting other speakers, making personal comments not related to the discussion or otherwise interfering with the orderly conduct of the meeting.
11. **Accept Responsibility and Be Sincere:** When mistakes or misunderstandings occur, the best way to move beyond the incident and to restore public trust is to be honest. Accept full responsibility for personal actions and opinions, avoid shifting blame to other groups or individuals. Be open and upfront regarding disagreements. Endeavor to repair damaged relationships, including openly and promptly apologizing where appropriate.
12. **Put City Interests First:** Always strive toward achieving the common good for the community by pursuing those decisions, actions and initiatives that are best for the community. Avoid conflicts of interest. At all times, place duty to uphold the law and duty to pursue organizational goals and objectives above personal interests.
13. **Seek No Personal Advantage:** Public officials, especially those that are elected, stand as agents of the public purpose and should conduct themselves in an open, fair and impartial manner. When it comes to municipal rules, laws, or services, do not seek special treatment for others, whether they be neighbors, friends, coworkers, employers, or family. Do not use the municipality or any part of a municipal program for personal advantage or for the advantage of others. Strive to live and serve in a manner that is above reproach and avoid the appearance of impropriety.
14. **Uphold the Democratic Process:** Perform duties with diligence and in accordance with the rules of order established by the common council, board, commission, or committee conducting business. Recognize that the authority to take formal action to direct or recommend rests with the common council or its designated committee in legal session and not with any individual members of said bodies. Public officials may express opposition to an action made by their respective committee(s). However, do not publicly criticize individual committee members or the committee as a whole for said action when the action has been properly presented, voted on, and passed by a majority vote. Ensure that citizen involvement and citizen opinions regarding public policy issues are fully considered.

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**General City Information**

Municipal Government Structure in Wisconsin

Cities in Wisconsin are incorporated municipalities that are created at the request of their inhabitants to perform local services. The Wisconsin Supreme Court has stated that municipalities are, “established by law to assist in the civil government of the state and to regulate and administer the internal or local affairs of the territory within their corporate limits.” Because municipalities were created by the state, they have been referred to as “creatures of the state.” As creatures of the state, municipalities have no inherent powers and have only the powers given them. Wisconsin cities are fortunate in that they have been granted extensive “home rule” powers. Home rule is the ability of cities to govern themselves in local matters without state interference. Wisconsin municipalities have two sources of home rule authority: (a) constitutional and (b) statutory or legislative. For more information on home rule, see the *Handbook of Wisconsin Municipal Officials*.

Class of Cities

The municipality of the City of Whitewater is organized as a 4th Class City under Wis. Stats. Chapter 64.

Council-Manager Form of Government

Per Municipal Code of Ordinances Chapter 2.04.010, the City of Whitewater is organized under the city manager plan of government as outlined in Wis. Stats. Chapter 64. This means that the city is governed by a common council composed of seven members, one councilmember from each aldermanic district in the city and two councilmembers at large. The city manager oversees the day-to-day operation of the city government and labors to ensure that policy direction provided by the common council is carried out efficiently and effectively.

**The City Manager**

The city manager serves as the chief executive officer for the City and oversees the day-to-day operation of all city departments. The city manager carries out the policy direction provided by the common council. The city manager possesses the sole responsibility for the creation and elimination of employment positions within the city and the discipline and/or termination of employees with the exception of those positions falling under the authority of the Police and Fire Commission. The city manager, together with the common council president, reviews and then recommends the appointment of individuals to serve on the various boards, committees, and commissions of the city government. The city manager is appointed and serves at the pleasure of the common council.

For more details regarding the office of city manager, see Whitewater Municipal Code of Ordinances Chapter 2.12 and Wis. Stats. Chapter 64.

**The Common Council**

The common council is composed of one councilmember from each of the five aldermanic districts in the City and two councilmembers at large. The term of office for each councilmember is two years, at which point the councilmember can seek reelection.

The common council is the highest legislative body in the local government of the City of Whitewater. As such, the common council has full legislative authority over all aspects of city government. Unless otherwise stated in local ordinance or state statute, the common council is responsible for final approval of all recommendations and actions proposed by standing and/or ad hoc committees. The common council appoints the city manager and confirms committee appointments recommended by the city manager and common council president. The common council possesses authority to enact ordinances, adopt resolutions, and otherwise establish policies for the long-term benefit of the City of Whitewater.

It is important to note that the common council is only empowered to act on behalf of the City when a majority of councilmembers is present. Individual members of the common council possess no legislative authority in and of themselves.

### **The Common Council President**

The common council president is elected at the first meeting after the election of new councilmembers. This occurs on the second regularly scheduled meeting of April each year. A president pro tem is also elected to serve the role of president when the common council president is absent. The common council president presides over and conducts meetings of the common council. As the first among peers, the common council president is responsible for preserving “order and decorum” at each meeting.

### **Boards, Committees and Commissions**

The common council is the policy-making body for the City. Unless otherwise endowed with specific decision-making authority, all committees serve in an advisory capacity to or for the common council.

City ordinances allow for a number of standing boards, committees, and commissions that provide direction and input on policy development for specific areas of city administration. Membership requirements vary by the type and purpose of each committee. However, these committees are typically comprised of at least one councilmember and a number of community members that reside within the City’s jurisdictional boundary. The following list includes all standing committees currently established by ordinance.

- Alcohol Licensing Review Committee (Ch. 5.20.025)
- Birge Fountain Committee (Ch. 2.53)
- Board of Review (Ch. 2.60)
- Board of Zoning Appeals (Ch. 19.72)
- Community Development Authority (Charter Ord. No. 4)
- Community Involvement & Cable TV Commission (Ch. 2.50)
- Disability Rights Commission (Ch. 2.46)
- Ethics Committee (Ch. 7.04)
- Finance Committee (Ch. 2.47)
- Landmarks Commission (Ch. 17.08)
- Library Board (Ch. 2.56)
- Parks & Recreation Board (Ch. 2.52)
- Pedestrian & Bicycle Advisory Committee (Ch. 2.51)
- Plan & Architectural Review Commission (Ch. 19.06)
- Police and Fire Commission (Ch. 2.28)
- Public Works Committee (Ch. 2.45)



- Urban Forestry Committee (Ch. 2.12)
- Whitewater University Technology Park Board
- Public Art Commission

#### Committee Appointments

Individual committee appointments occur annually, typically at the first common council meeting following the Spring Election. However, due to unexpected vacancies or resignations, appointments can occur at any time throughout the year. The process for filling committee vacancies is as follows:

1. Vacancies are announced via the city website, social media, and the official newspaper prior to any appointment being made.
2. A standard application form shall be provided in electronic and hard copy for use by all applicants (including incumbents wishing to be reappointed).
3. Once applications are received, they are compiled by the city clerk and delivered to the city manager and common council president for review.
4. The common council president and city manager review applications and arrange for face-to-face meetings with applicants. If schedules do not permit a face-to-face meeting, this step can be completed by phone or web conference.
5. The common council president and city manager convene to discuss applicants and select candidates for recommendation to the common council. Recommended appointments are placed on the agenda for the next common council meeting for approval.
6. The common council deliberates on the recommended appointments and approves or denies the appointments.
7. Individuals who have been successfully appointed to a committee are then contacted by the City Manager's designee and a date is set for orientation.
8. The new committee member attends a committee member orientation as soon as possible following appointment.

#### Criteria for the Appointment of Committee Members

When considering applicants for appointment to a committee, the city manager and common council president will look at a variety of factors that includes, but is not limited to the following:

**Availability:** Regular attendance at committee meetings is mandatory. If a committee member fails to attend three consecutive regular meetings, or fails to attend at least three-fourths of the regular meetings during the preceding 12 months, s/he may be replaced.

**Number of Previous Terms (Incumbents):** Unless otherwise stated in ordinance, no member of any committee can serve for more than two consecutive terms. If an applicant has served for two consecutive terms, s/he must have been off said committee for at least one term before reapplying for appointment.

**Knowledge and Life Experience:** Relevant life experience, whether personal or professional, can provide added value to the composition of a committee and is often viewed favorably in the selection process.

**References:** References are an important resource in helping to identify applicant strengths and weaknesses as part of the selection process.

**Residency:** While some committees do not require residence within city limits, the majority will require residency within the boundaries of the Whitewater Unified School District or within the municipal limits of the City of Whitewater.

**Other Factors:** The ultimate goal of the city manager and common council president when making committee appointments is to ensure committees are filled by diverse and competent individuals capable of making sound decisions and capable of working together even when opinions may differ. With this goal in mind, a full range of additional factors may be considered with each appointment, and some factors may vary depending on the vacancy needing to be filled. Things such as political background, prior public service experience, and professional and personal relationships with current committee members may all be relevant.

### **All about Public Meetings**

All meetings of the common council or any other established committee must be open to the public pursuant to open meetings law, with few exceptions (see Closed Sessions, page 8). The intent of the law is to ensure that council action and deliberation is conducted openly. All regular and special meetings must be publicly noticed with an agenda that includes a specified time and date in advance of the meeting.

Public meetings, whether of the common council or another municipal committee, serve as a showcase of municipal government for the people of Whitewater. Meeting attendees can often include journalists and reporters for local news outlets, university students, representatives from community groups, and interested residents. Common council meetings are broadcast live and meeting business is often the subject of newspaper articles the following day. In short, many eyes are on each meeting with the public often basing its opinion of the entire City on how efficiently committee meetings operate.

The following subsections provide important information regarding the conduct of common council meetings. The guidance herein given also extends to the many standing committees and commissions established by ordinance.

#### Meeting Schedules

As established by ordinance, the common council is required to meet at least once per month. Regular meetings are held on the first and third Tuesdays in each month. Meetings begin at 6:30 p.m. If a common council meeting date falls on an election day or a holiday, the meeting is held on the Thursday of the same week instead. All other committees should maintain a regular meeting schedule and make sure the schedule is posted on the committee's webpage. The regular meeting schedule should also be provided to the city clerk for the municipal record.

#### Special Meetings

When at all possible, municipal committees, especially the common council, should endeavor to conduct business during regular meetings. However, circumstances may, at times, call for a meeting outside of the regular meeting schedule. These meetings are referred to as "special meetings." When circumstances warrant a special meeting, the staff person responsible for the committee should work with the committee chair to establish a meeting time when a majority of committee members can attend. In the case of the common council, the city manager is primarily responsible for arranging the meeting; however, the city manager will typically work with the common council president to arrange the meeting at a time when the largest number of councilmembers are available. Posting of the special

meeting should comply with the requirements set forth in the Whitewater Transparency Enhancement Ordinance (Ord. 2.62).

If a minority of committee members disagree with the calling of the special meeting, said committee members can submit a written objection for the meeting record. In lieu of submitting a written objection, language can be placed on the next regular meeting agenda calling out the objection. This allows the objecting party an opportunity to voice their objection, which is then added to the minutes for the meeting.

#### Electronic Devices

Electronic devices such as smart phones, tablets, Chromebooks and laptops have become commonplace in the Whitewater community. Use of electronic devices during a public meeting is encouraged when the device is used as an alternative to printed materials, to look up information relevant to the discussion items, or a similar use that supports the discussion at hand. Use of electronic devices for other irrelevant uses is discouraged.

City staff provides all common council members with an electronic copy of posted packet materials in advance of the meeting via email. City departments may also provide an electronic version of packet materials to other committees. The City maintains a number of Chromebooks which can also be used by public officials during meetings to reduce or avoid the need for paper copies of meeting materials. Chromebooks can be made available to public officials upon request. A request must be provided ahead of time so that the device can be ready at the start of the meeting.

#### Electronic Communications

During public meetings, electronic messaging (text, email, IM, etc.) should not be used for private communication. While use of electronic devices is encouraged, encouragement comes with the expectation that devices will be used for meeting business and personal communications will be avoided. Public officials should not correspond via electronic messaging on agenda items during the meeting, unless the conversation will be publicly shared with the full common council as part of the meeting discussion. If the need to make a personal communication arises during the meeting, public officials should step out of the meeting room to communicate. No device should be used by a public official for personal entertainment while a meeting is in session.

#### Packet Materials

In general, meeting materials are provided in advance of every meeting. Hard copies of meeting materials are usually distributed three to four days in advance of the meeting. Common council packets, for example, are distributed to common council members on the Friday before the next meeting. Public officials are expected to review meeting materials provided in the packet prior to the meeting so that they can more effectively contribute to the discussion for each item on the agenda.

#### Questions of Staff

City staff welcomes questions related to agenda items. When questions are shared with staff in advance of the meeting day, additional material to help answer the question can usually be provided by the start of the meeting. Questions during meetings are, of course, welcome also, but some questions may require additional staff research thus delaying a response until the next meeting.

### Meeting Records

Meetings of the common council, community development authority, plan and architectural review commission, and police and fire commission are required to be recorded on video per the Whitewater Transparency Enhancement Ordinance Ch 2.62. The common council and the plan and architectural review commission are also broadcast live. In addition, the city clerk, under the direction of the city manager, is responsible for maintaining meeting records including documenting the minutes of the proceedings at each public meeting. Due to the number of potential meetings, most committees are assigned a specific city employee to serve as meeting support, distributing agendas and keeping minutes.

### Closed Sessions

While meetings are required to be open by law, there are situations where the best interest of the City demands a confidential discussion. Closed sessions are allowed under Wisconsin Statutes for a limited list of circumstances. Items discussed in closed session should not be shared outside of closed session or with persons not party to the closed session discussion. The importance of maintaining confidentiality surrounding items discussed in closed session cannot be overstated. It is also important to limit closed session discussions to the topic(s) noted on the agenda. Discussion of issues other than what is posted on the agenda and what qualifies as permissible in closed session is a violation of state law with violators subject to a fine.

### Rules of Order

The common council has the authority by ordinance to determine its own rules of procedure. However, *Robert's Rules of Order* serves as a general guideline for setting procedures in meetings. Specific details regarding the conducting of meetings can be found in the Whitewater Municipal Code of Ordinances, Chapter 2.08.

### Setting the Agenda

By local ordinance, the agenda for meetings of the common council is set by the city manager. Councilmembers wishing to add agenda items should make their request no later than one week prior to the meeting. Councilmembers can make requests by contacting the city manager directly, or by contacting the city clerk who will then notify the city manager. The city manager will honor all legal agenda item requests made by a councilmember. However, if the city manager anticipates a long meeting or that a particular item requested will be contentious and result in a lengthy meeting, s/he may contact the requesting councilmember to discuss setting the item for a future meeting agenda.

For all municipal committees outside of the common council, meeting agendas should be set by the committee chair. In cases where there is a staff person assigned to support a particular committee or commission, the staff member should assist in drafting the agenda, ensuring that the agenda complies with standard formatting guidelines. Just as with requests made by councilmembers, the committee chair should honor requests for agenda items that are submitted by committee members. If a question or concern regarding a potential discussion item arises, the committee chair should consult with the assigned staff person, the city clerk, or the city manager for guidance.

### Meeting Attendance and Participation

To ensure that voting members are well versed on the issues facing the board or commission, regular attendance is mandatory. In the event that a member fails to attend three consecutive, regular meetings

or fails to attend at least three-fourths of the regular meetings during the preceding twelve months, the board may request that the common council select another individual to serve out the member's term.

### **Code of Ethics for Public Officials**

The municipal government of the City of Whitewater can only be as effective as it is independent, impartial and responsible to the people. For this reason, all public officials, whether elected, appointed, or otherwise employed by the City of Whitewater are expected to adhere to ethical standards as outlined in Wis. Stats. Secs.19.41-19.59 and as outlined in chapter 7 of the Whitewater Municipal Code of Ordinances, which is included at the end of this manual.

### Prohibited Conduct

In general, the state ethics law as referenced above, prohibits the following conduct:

**Use of Office for Private Gain:** Public officials are prohibited from using their offices to obtain financial gain or anything of substantial value for the private benefit of themselves, their immediate families, or organizations (including employers) with which they are associated (see Sec. 19.59(1)(a), Wis. Stats.).

**Offering or Receiving Anything of Value:** No person may give and no public official may receive "anything of value" if it could reasonably be expected to influence the local public official's vote, official action or judgment, or could reasonably be considered as a reward for any official action or inaction (see Sec. 19.59(1)(b), Wis. Stats.).

### When to Recuse Oneself

While the full code of ethics as outlined in ordinance is at the end of this manual, the subject of recusing oneself is worth mentioning here. To recuse oneself from a discussion essentially means to remove oneself from discussion to avoid a conflict of interest.

Public officials should recuse themselves from discussion when there is a clear conflict of interest. In such cases, recusal does not just mean abstaining from a vote, but means instead to step away from the discussion of an item completely.

When a public official recuses himself or herself from discussion and action on a particular item, the recusal is noted in the minutes of the meeting. In most cases, it is appropriate, though not required, for the recused public official to leave the room where public discussion is taking place to ensure that s/he can have no influence on the discussion or final action in any way.

### Ex Parte Communications

*The Plan Commission Handbook Second Edition 2012, Rebecca Roberts, University of Wisconsin Extension*, pages 15 and 16, describes how public officials should avoid ex parte communications regarding quasi-judicial matters pending or that may come before the council, a committee, commission, or board. These decisions often involve application of laws, such as ordinances, (for example a request for a conditional use permit). It states:

“[Public officials] should not have conversations or receive correspondence regarding a quasi-judicial matter that is pending before [the city] or which may come before [the city] except during a noticed meeting or hearing on the matter. Such outside contacts are known as “ex parte communication.” Ex parte communications may not be considered in decision-making

unless it is disclosed and made part of the official record in the matter. The [body] as a whole can then determine the admissibility of the information and individual members can determine its credibility and weight in deciding their vote on the issue.

The reason for exclusion of ex parte information is that parties are entitled to know and examine the source of information used by [the city] in its decision-making. Outside discussion regarding procedural matters such as scheduling a meeting or explaining how to file an application is permissible. Ex parte communication is not a concern when enacting legislation or making administrative decisions (i.e. issuing simple zoning or building permits).”

In order to avoid ex parte communications, the handbook recommends:

1. Suggesting that members of the public present information in an open meeting or hearing or submit a written comment.
2. Disclosing ex parte communications at an open meeting or hearing and make the information part of the record so that it can be considered in decision making.

### **Open Meetings and Open Records**

Wisconsin has a long history of promoting open government. As a local government conducting business that has a direct impact on residents, the City of Whitewater also values and appreciates the importance of maintaining transparency. For this reason, it is imperative that public officials endeavor to comply absolutely with state laws related to public meetings and public records.

#### Open Meetings Law

Wisconsin’s open meeting law is found in Wis. Stat. Secs. 19.81 - 19.98. Essentially, the open meeting law requires that all meetings of all governmental bodies be preceded by public notice and be publicly held in places reasonably accessible to the public and open to all citizens at all times unless otherwise expressly provided by law. For the purpose of this manual, it is safe to conclude that, in general, all discussions, deliberations, actions, or inquiries conducted by a governmental body (meaning the common council or any other municipal committee) should be conducted in an open meeting unless otherwise specifically mentioned in Sec. 19.85(1) (a-j). More information regarding open meetings can also be found in chapter 7 of the League of Wisconsin Municipalities publication, *Handbook for Wisconsin Municipal Officials*.

#### Whitewater Transparency Ordinance

In addition to open meeting rules as established by state law, the City of Whitewater has enacted a Transparency Enhancement Ordinance (Whitewater Ordinance Chapter 2.62) which provides additional open government requirements such as a seventy-two hour in advance meeting notice posting for meetings and adding agenda items. This is greater than the State statutory twenty-four hour requirement normally applicable to cities. If the seventy-two hour requirement has not been met, the item can only be taken up by the body by an affirmative vote of the members voting.

#### Walking and Negative Quorums

There are two important circumstances where a group of committee members, less than a quorum in number, could gather together and still violate the open meeting law. These two situations are referred to as “walking quorum” and “negative quorum.” The following sections were taken from Chapter 6 of the *Wisconsin Legislator’s Briefing Book for 2017-2018* and provide details regarding court cases wherein walking and negative quorums were defined.

**Negative Quorum:** The applicability of the Open Meetings Law to a gathering of less than one-half of the members of a governmental body has been addressed by the Wisconsin Supreme Court. The case involved an unannounced, private meeting of four members of the 11-member Milwaukee Metropolitan Sewerage Commission. The subject of the meeting was the commission's proposed operating and capital budgets. Adoption of these budgets required a 2/3rds vote of the commission (i.e., eight votes), and four members was a sufficient number to block adoption. Such a gathering of enough members that could be sufficient to block an action of the full body was labeled as a "negative quorum." [State ex rel. Newspapers, Inc. v. Showers, 135 Wis. 2d 77 (1987).]

The court provided a two-part test to determine when a gathering constitutes a negative quorum and triggers the Open Meetings Law. Under the test, such a meeting is subject to the law if: (1) the members have convened for the purpose of engaging in governmental business, whether discussion, decision-making, or information gathering; and (2) the number of members present is sufficient to determine the governmental body's course of action on the subject under discussion.

**Walking Quorum:** The applicability of the Open Meetings Law to a series of informal discussions between small numbers of the body's members has been addressed by the Wisconsin courts and the state Attorney General. This is commonly referred to as a "walking quorum," and such series of small-group meetings that occur with the implied or express agreement to act uniformly in a sufficient number to reach a quorum may only be held with proper notice and accessibility.

The essential danger identified by the courts with a walking quorum is that it may produce a predetermined outcome and render the public meeting a mere formality. According to an informal opinion by the Attorney General, use of administrative staff to individually poll members regarding how they would vote on a proposed motion is a prohibited walking quorum.

If, however, there is no implied or express agreement to act uniformly in sufficient number to reach a quorum, a series of informal exchanges among separate groups of members may occur without violating the Open Meetings Law.

#### Open Records Law

Transparency in government in Wisconsin does not relate solely to open meetings, but extends to governmental records as well. The essential takeaway for newly elected or appointed officials is this, unless otherwise specifically identified as an exception by law, all governmental records are public and subject to public examination. It should be noted that all city-related emails, letters and reports produced by, sent from, or received by an elected or appointed official qualify under this broad definition. More detailed information regarding public records can be found in Wis. Stats. Secs. 19.21 - 19.39 and also in in chapter 7 of the League of Wisconsin Municipalities publication, *Handbook for Wisconsin Municipal Officials*.

#### **Committee Policing**

In general, the president or chair of each committee is the person responsible for maintaining order and proper decorum at meetings, following the example set by ordinance with the role of the common council president. If committee members encounter persistent challenges with maintaining order at meetings due to the behavior of specific members of the public or the committee, the city manager may be called upon to address the issue. Any action to remove or reassign a committee member will not take

place until the city manager has consulted with the common council president and then with the full common council. If the issue involves a common council member, the issue should first be addressed by the common council president and the city manager is excluded from the process. The president will then bring the matter to the full common council for discussion and action.

### **Effective Decision-Making**

Often the decisions made by municipal committees can have a far reaching impact on residents of the Whitewater community. This reality can make the role of a committee member both challenging and rewarding. This is especially true for those serving on the common council, but holds true for other municipal committees as well.

When a committee is tasked with making a decision on a particular issue, it is important to keep emotions and political influences out of the discussion as much as possible. This does not mean that committee members should not be sensitive to the needs and desires of those most closely impacted by a particular decision. However, it does mean that committee members should strive to remain open minded, work together and follow an objective process. Following is a list of questions you should consider asking yourself before making a final decision:

#### Do you have sufficient information?

The saying, “shoot first, ask questions later” helps illustrate the danger of making quick decisions without first confirming the information on the issue is complete. It is likely impossible to know absolutely everything there is to know about a particular issue, but it is possible to gather a reasonable amount of information from multiple perspectives. While committees should deliberate and take action in a timely manner, not all actions need to be taken immediately. In some cases it may be beneficial to bring an item back for discussion at a future meeting if information on the issue is limited.

#### Am I separating people and emotions from the issue?

While we like to think we are objective, rational beings, we can often be led by our emotions. It is important to make sure that on committee decisions, emotions are not the basis for decisions made. Be honest with yourself and be sure your own positive or negative feelings about a particular matter or individual take a backseat to the proper weighing of facts related to the issue.

#### Are you open, honest, and willing to listen?

Examine your own approach to dealing with conflict. Are you really listening to what your colleagues are saying? Are you thinking about the implications? Are you considering them? Don't be afraid to state your concerns. Be honest by revealing what you see as the options and by explaining what you see as shortcomings in the suggestions of others.

#### What is the committee's scope of responsibility?

At times committee members can feel as if they have bogged down and are not progressing on an issue. At such times, it can be helpful to take a step back and review the purpose for which the committee was established or review committee goals. If the discussion has gone off track, focus may need to be redirected. If the problem seems impossible to solve, you may need to come back to it at the next meeting. No matter what action is taken, always remember that everyone on the committee is volunteering their time and shares a common interest in the overall well-being of the City.



Is there a compromise that can be made?

At times when one is wrapped up in a debate on a particular topic, it can be easy to think only in the absolute terms of one's particular position. However, more often than not, win-win solutions exist when committee members are creative enough to discover them. When parties are locked on an issue, take a moment to consider potential routes for a compromise. Think about all that has been said throughout the debate. Can the best aspects of everybody's ideas be incorporated into a plan? Ask your colleagues why a particular approach is not satisfactory and why other approaches are.

Did staff have any thoughts or recommendations?

Most committees have a specific municipal employee assigned to serve as staff support to the committee. Often the person assigned is a department director or manager in the area that most closely associates with the role of the committee. The Neighborhood Services Director, for example, supports and advises the plan and architectural review commission. Assigned staff can be a valuable resource to provide professional guidance and/or recommendations on how to proceed with a decision. Staff can also research the topic under discussion and gather additional information related to the specific case in question. Staff can often also provide insight into best practices used in other communities to address similar issues.

**Effective Council, Committee/Staff Relations**

People make it all happen. In local government, people are at the heart of the organization, both those that comprise the organization, and those that the organization serves. In the City of Whitewater, cooperation and communication between city employees and committee members is encouraged and can often result in better outcomes and a more rewarding experience for all involved. To ensure that lines of positive communication remain open for all employees and volunteers, it is important to clarify some ground rules regarding communications as well as the role of staff members and committee members.

Everyone is Equal

All committee members are considered equal, including the chair or president of the committee. This means everyone on the committee should receive the same information on a particular matter. When a staff member shares information related to committee business, committee members can be confident the same information is being shared with all committee members. No single member should receive "special" information on an issue. This also means committee members should expect information they request on committee business will be distributed to the entire committee. This is the same for all committees, including the common council.

Use of Staff Resources

Staff time is limited. All positions within the City of Whitewater exist to provide and maintain municipal services, facilities, and infrastructure and to carry out organization priorities as determined by the common council. Committee members, including common council members, should be cognizant of this reality when making requests for information. Requests for information are welcome and encouraged; however, committee members should first consult with the city manager before requesting research that will consume significant staff time or otherwise divert limited resources to a project that falls outside of established common council priorities.

### Employee Contact Line of Authority

Unless otherwise established by state statute, city ordinance, or employment agreement, all employees ultimately report to and work for the city manager. The city manager, in turn, works for and reports to the common council.

Common councilmembers as well as committee members are encouraged to learn about the role of each municipal department, to ask the staff questions about municipal operations and get to know employees. As a general practice, employees are expected to copy the city manager on all responses to inquiries made by common council members.

While communication is encouraged, the responsibility to direct the work of municipal employees, as well as prescribing or exacting employee discipline, are strictly the responsibility of the city manager. Therefore, if a committee member, including a common council member, has a concern related to the conduct or performance of an employee, that committee member should address it with the city manager.

However, if the concern were related specifically to the conduct or performance of the city manager, the committee member would be encouraged to bring it to the attention of the common council.

### Lobbying Committee Members

Just as committee members should avoid directing work or disciplinary action for employees, employees should refrain from any action or communication that is intended to “lobby” the support of committee members for support of a particular project, budget request, or other initiative. This holds true for department directors, managers, and general employees. If a committee member finds himself or herself in such a position, the committee member is encouraged to direct the employee to his/her immediate supervisor and/or department director to address the issue. Committee members are encouraged to notify the city manager so legitimate issues can be promptly addressed.

### **Communicating with the Public**

The life of a public official is just that, public. Though committee members should feel comfortable speaking their mind and answering questions, what a committee member shares can have an impact on public perception of the entire municipal organization. With that in mind, here are some things to consider when communicating with residents regarding municipal issues.

### Representing the Committee

No single committee member, including common councilmembers, can individually commit the city as a whole, or their respective committee to a position on an issue without a vote or consent of that committee. It is inappropriate to commit to things the whole committee may not be aware of or approve. Committee members should refer requests for official positions on an issue to staff for review and recommendation. The matter should then be added to an agenda to obtain the committee’s official position.

### Complaints from Citizens

If a committee member receives a complaint not related to employee behavior, s/he is encouraged to share the details of the complaint and complainant contact information with city staff so that any problems can be addressed.

**Report or Refer the Complaint:** Often the complainant is looking for an understanding ear and agreement from the committee member. While committee members are encouraged to be sensitive to the plight of the complainant, committee members should not attempt to promise a particular outcome or attempt an interpretation of the ordinance or policy related to the complainant's concern. Instead, committee members should commit to passing along the information to the appropriate staff person for resolution.

**Avoid Sharing at Meetings:** Avoid waiting to bring up citizen complaints until the next committee meeting. While doing so may appear to be a manner of "holding government accountable" the reality is that bringing up complaints at a public meeting can deflate staff, embarrass or annoy other committee members, and ultimately damage the credibility of the organization. This is all in addition to making the complainant wait to have their concern heard thus delaying resolution.

**Avoid Private Disputes.** Occasionally, a committee member may be asked to get his/her committee involved in what is purely a private dispute. These disputes typically include nuisance complaints, work hours for contractors, boundary line disputes, fence problems, and many, many similar issues. Intercession in such matters will be a drain on resources and will ultimately prove fruitless. If a committee member is unclear as to whether an issue is a private dispute or is within the City's jurisdiction, s/he is encouraged to refer the issue to city staff so that a proper determination can be made and subsequently shared with the complainant.

#### Complaints Regarding Employee Behavior

Citizen complaints regarding employee behavior or performance should always be referred to the city manager for investigation and resolution.

#### Media Relations

Common councilmembers, and occasionally other committee members, may be approached by the media and asked for commentary on a council action or position on an issue. To the extent that the common council has taken an official action or position, the city manager, or his/her designee will generally be the spokesperson. Common councilmembers, however, are not prohibited from sharing personal opinions with the media or from referencing previous public actions taken by the common council as a whole. The same applies to other municipal committees.

#### Represent General Interests

As previously stated in this manual, committee efforts should always focus on what is best for the city as a whole. Common councilmembers and other committee members must be careful to represent the general interests of the City and not special interest groups.

#### **Conclusion**

The purpose of this manual has been to provide new committee members, including common council members, with helpful information that clarifies fundamental elements of serving in a public office for the City of Whitewater. Committee members are encouraged to read the manual, *Handbook for Wisconsin Municipal Officials*, produced by the League of Wisconsin Municipalities, and to become familiar with the Whitewater Municipal Code of Ordinances in an effort to gain further knowledge regarding the role of public officials in Wisconsin. As always, feel free to contact the City Manager's office at 262-473-0104 with any additional questions regarding municipal operations or this manual.

**Whitewater Municipal Code of Ordinances**  
**Chapter 7.04 Code of Ethics**  
**Appendix A**

Sections:

7.04.010 - Declaration of policy.

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for all city officials and employees, whether elected or appointed, paid or unpaid, including members of boards, committees and commissions of the city. The purpose of this code is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city. The provisions and purpose of this code and such rules and regulations as may be established are hereby declared to be in the best interests of the city.

(Ord. 1203(2/5/91) § 2(part), 1991).

7.04.020 - Definitions.

As used in this chapter:

- (a) "Public employee" means any person excluded from the definition of a public officer who is employed by the city.
- (b) "Financial interest" means any interest which shall yield, directly or indirectly, a monetary or other material benefit to the officer or employee or to any person employing or retaining the services of the officer or employee.
- (c) "Official" means all city officers as defined in Section 62.09 under Wisconsin Statutes and all members of boards and commissions and agencies established or appointed by the city manager or common council, whether paid or unpaid.
- (d) "Personal interest" means any interest arising from blood or marriage relationships or from close business or political associations, whether or not any financial interest is involved.
- (e) "Person" means any person, corporation, partnership or joint venture.

(Ord. 1203(2/5/91) § 2(part), 1991).

7.04.030 - Statutory standards of conduct.

There are certain provisions of the Wisconsin Statutes which should, while not set forth herein, be considered an integral part of any code of ethics. Accordingly, the provisions of the following sections of the Wisconsin Statutes, as from time to time amended, are adopted by reference and shall apply to public officials and employees whenever applicable to wit:

- (a) Sec. 946.10. Bribery of Public Officers and Employees.
- (b) Sec. 946.11. Special Privileges from Public Utilities.
- (c) Sec. 946.12. Misconduct in Public Office.
- (d) Sec. 946.13. Private Interest in Public Contract Prohibited.
- (e) Chapter 11. Campaign Financing.
- (f) Chapter 19. Subchapter IV Open Meetings of Governmental Bodies.

(Ord. 1203(2/5/91) § 2(part), 1991).

7.04.040 - Responsibility of public office.

Public officials and employees hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this state; to observe the highest standards of law in the exercise of the powers and duties of their office; to impartially carry out the laws of the nation, state and city; to discharge faithfully the duties of their office regardless of personal considerations; and to recognize that the public interest must be their prime concern.

(Ord. 1203(2/5/91) § 2(part), 1991).

7.04.050 - Dedicated service.

All officials and employees of the City of Whitewater should be loyal to the objectives expressed by the electorate and the programs developed to attain these objectives. Appointive officials and employees shall adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(Ord. 1203(2/5/91) § 2(part), 1991).

7.04.060 - Fair and equal treatment.

(a) Use of Public Property. No official or employee shall request or permit the unauthorized use of city-owned vehicles, equipment, materials or property for personal convenience or profit.

(b) Obligations to Citizens. No official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

(Ord. 1203(2/5/91) § 2(part), 1991).

7.04.070 - Conflict of interest.

(a) Financial and Personal Interest Prohibited. No official or employee, whether paid or unpaid, shall engage in any business or transaction or shall act in regard to financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of official duties in the public interest contrary to the provisions of this chapter or which would tend to impair independence of judgment or action in the performance of official duties.

(b) Specific Conflicts Enumerated.

(1) Incompatible Employment. No official or employee shall engage in or accept private employment or render service for private interest when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties, unless otherwise permitted by law and unless disclosure is made as hereinafter provided.

(2) Gifts and Favors.

(A) No official or employee shall accept any gift whether in the form of service, loan, thing or promise, from any person which may tend to impair his independence of judgment or action in the performance of his duties or grant in the discharge of his duties any improper favor, service or thing of value. EXCEPTION: Advertising or promotional items having a value of ten dollars or less per gift shall be exempt.

(B) No official or employee may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could reasonably be expected to influence the employee's official actions or judgments or be considered a reward for any action or inaction on the part of the official or employee.

- (C) An official or employee is not to accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that such hospitality would not be extended were it not for the fact that the guest, or a member of the guest's immediate family, was a city official or employee. Participation in celebrations, grand openings, open houses, informational meetings and similar events are extended from this prohibition. This paragraph further shall not be construed to prevent candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign.
  - (D) Gifts received by an official or employee under unusual circumstances should be referred to the ethics board within ten days of receipt for recommended disposition.
  - (3) Representing Private Interests Before City Agencies or Courts. No official or employee shall appear on behalf of any private person (other than him or herself, his or her spouse or minor children) before any city agency, board, commission or the common council if the official or employee or any board, commission or committee of which the official or employee is a member has any jurisdiction, discretion or control over the matter which is the subject of such representation. However, members of the common council may appear before city agencies on behalf of constituents in the course of their duties as representatives of the electorate or in the performance of public or civic obligations.
    - (A) Ad Hoc Committee. EXCEPTION: No violation of this section shall exist, however, where an individual serves on an ad hoc committee charged with the responsibility of addressing an issue or topic in which that individual, or the employee or a client of that individual, has an interest so long as the individual discloses to the ad hoc committee that such interest exists.
  - (c) Contracts with the City. No city officer or employee who, in his capacity as such officer or employee, participates in the making of a contract in which he has a private pecuniary interest, direct or indirect, or performs in regard to that contract with some function requiring the exercise of discretion of his part, shall enter into any contract with the city unless it falls within the confines of Sec. 946.13, Wis. Stats. "Private Interest in Public Contract Prohibited," or the following:
    - (1) The contract is awarded through a process of public notice and competitive bidding or the common council waives the requirement of this section after determining that it is in the best interest of the city to do so.
    - (2) The provisions of this section shall not apply to the designation of a public depository of public funds.
  - (d) Disclosure of Interest in Legislation.
    - (1) Any member of the common council who has a financial interest or personal interest in any proposed legislation before the common council, shall disclose on the records of the common council, the nature and extent of such interest.
    - (2) Any other official or employee who has a financial interest or personal interest in any proposed legislative action of the common council or any board, commission or committee upon which the official or employee has any influence or input or of which the official or employee is a member that is to make a recommendation or decision upon any item which is the subject of the proposed legislative action shall disclose on the records of the common council or the appropriate board, commission or committee the nature and extent of such interest.
- (Ord. 1529A §§ 1, 2, 2003; Ord. 1203(2/5/91) § 2(part), 1991).

#### 7.04.075 - Disclosure of confidential information.

No official or employee shall without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city.  
(Ord. 1529A § 1(part), 2003).

7.04.080 - Ethics board.

- (a) There is hereby created an ethics board to consist of five members and one alternate, all residents of the city. Elected officials or employees will not be eligible for appointment. The city manager shall provide necessary staff assistance to the board. The city attorney shall routinely furnish the board whatever legal assistance is necessary to carry out its functions. However, if a possible, apparent, or actual conflict of interest involving the city attorney should occur, legal counsel shall be furnished the board through the city manager's appointment of other legal counsel after consultation with the chair of the ethics board.
  - (b) The members of the ethics board shall be appointed by the city manager subject to confirmation by the common council. Terms of office shall be three years except that when the initial appointments are made, one member shall be appointed for one year, two for two years, and two for three years. The term of the alternate shall be for three years, except that the initial appointment shall coincide with the ending of the terms of the member appointed for one year.
  - (c) The ethics board shall elect its own chair, vice-chair and secretary and shall develop written rules of procedure which shall be filed with the city clerk.
  - (d) The ethics board may make recommendations to the common council with respect to amendments to the code of ethics ordinance.
- (Ord. 1203(2/5/91) § 2(part), 1991).

7.04.090 - Duties of the ethics board.

- (a) Upon receipt at the city clerk's office of a notarized complaint in writing, which shall state the name of the elected or appointed official or employee alleged to have committed a violation of this chapter and which shall set forth the particulars thereof, the city clerk or designee shall distribute a copy of the complaint along with a copy of the code of ethics ordinance to the respondent within ten working days (i.e., Monday through Friday, excluding holidays). The city clerk or designee also shall send a copy of the complaint to each member of the ethics board. The information contained in the verified complaint shall be kept confidential until a proper disposition of the case occurs.
- (b) The board shall meet in closed session and determine whether the complaint, if true, may constitute a violation of the chapter. If four or more of the members of the board vote to dismiss the verified complaint, a formal dismissal action adopted in open session shall be filed with the city clerk and a copy sent to the complainant and the respondent. If four or more members do not vote to dismiss, the action shall proceed as provided in subsection (c) of this section.
- (c) If the action is not dismissed under subsection (b) of this section, the board shall make preliminary investigations with respect to the alleged violation of the ethics chapter. No preliminary investigation of the activities of any elected or appointed official or employee may be initiated unless such official or employee is notified in writing. The notice shall state the nature and purpose of this preliminary investigation. Information gathered during the preliminary investigation shall be kept confidential until a finding is made by the board.
- (d) If, after the preliminary investigation, three or more of the members of the board vote in open session that no probable cause exists, the board shall issue a formal finding to that effect and dismiss the case. A copy of the formal finding shall be filed with the city clerk and a copy distributed to the complainant and the respondent.
- (e) If the board is unable to come to a conclusion on the subject of probable cause, due to abstentions or the voting of "present," the board shall have further discussion and vote again. If the stalemate continues, the board shall treat it as a dismissal and proceed as in subsection (d) of this section.
- (f) If, after the preliminary investigation, three or more of the members of the board vote that there is probable cause that a violation took place, the board shall file formal findings to that effect with the city clerk and proceed toward the conduct of a hearing. The vote shall be taken in open session.

- (g) In the case of a probable cause finding, the board shall send a notice of due process rights and a notice of hearing on the matter to the respondent. The complainant shall also be notified of the hearing.
  - (h) The board shall then conduct a hearing on the verified complaint, which hearing shall be held not more than thirty days after such finding of probable cause. The board shall give the respondent at least twenty days' notice of the hearing date. Such hearings shall be at open session unless the respondent petitions for a hearing closed to the public. The rules of criminal evidence shall apply to such hearings. All evidence considered by the board, including certified copies of records and documents, shall be fully offered and made part of the record. Every party shall be afforded adequate opportunity to rebut or offer countervailing evidence.
  - (i) During all stages of the proceeding conducted under this section, the elected or appointed official or employee whose activities are under investigation shall be entitled to be represented by counsel of his or her own choosing.
  - (j) The respondent or his/her attorney shall have an opportunity to examine all documents and records to be used at the hearing under subsection (g) of this section at a reasonable time before the date of the hearing; as well as during the hearing, to bring witnesses, to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.
  - (k) The board shall have the power to compel the attendance of witnesses and to issue subpoenas granted other boards and commissioners under Section 885.01(3) of the Wisconsin Statutes.
  - (l) Determination. Upon conclusion of the hearing the board shall make a decision agreed to by at least four members. It shall file the decision in writing within ten working days after the vote, signed by at least four participating board members stating findings of fact, conclusions of law concerning the propriety of the conduct of the elected or appointed official or employee, and if appropriate, referring the matter to the city council or other proper authority with a recommendation for censure or other disciplinary action. A member of council censured may be subject to recall pursuant to Section 9.10, Wisconsin Statutes, or any other legal process authorized by law. If four or more members are not able to reach an agreement, the complaint shall be dismissed.
- (Ord. 1203(2/5/91) § 2(part), 1991).

#### 7.04.100 - Applicability of code.

This code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory provision and statutory action is mandatory, or when the application of a statutory provision is discretionary, but determined by the ethics board to be more appropriate or desirable.

(Ord. 1203(2/5/91) § 2(part), 1991).

#### 7.04.110 - Distribution of the code.

The city clerk shall provide copies of this code to elected and appointed officials covered by this chapter and shall keep at least one copy permanently on file for the use of the public.

(Ord. 1203(2/5/91) § 2(part), 1991).

#### 7.04.120 - Severability.

- (a) If any provision of this chapter is invalid or unconstitutional, or if the application of this chapter to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect without the invalid or unconstitutional provision or application.
  - (b) This ordinance shall be in full force and effect from and after its passage and publication.
- (Ord. 1203 (2/5/91) § 2(part), 1991).



7.04.130 - Penalty for violations.

In addition to any other provisions relating to disciplinary action or censure, any person who violates any of the provisions of this chapter may forfeit and pay a penalty of not less than twenty-five dollars nor more than two hundred fifty dollars for the first offense, together with the costs of prosecution; and for the second and subsequent offenses, not less than fifty dollars nor more than two hundred fifty dollars, together with the costs of prosecution. If respondent fails to pay the penalty and costs within sixty days of imposition of the penalty, the city may collect the penalty by obtaining a judgment in the circuit court and collecting said judgment as provided by law.

(Ord. 1203(2/5/91) § 2(part), 1991).