



OFFICIAL MEETING PACKET OF THE BOARD OF TRUSTEES

PRESIDENT BARB ERMELING PRESIDING
ADMINISTRATOR DANIEL GUILD; STAFF ADVISOR

This annual organizational meeting of the elected Board of Trustees, gathering during their 22nd legislative session, is composed of seven (7) members, who will convene at the Weston Municipal Center's Board Room, which is located at 5500 Schofield Avenue, on **Monday, April 30, 2018, at 6:00 p.m.**



**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
ATTENTION – NOTICE OF PUBLIC MEETING**

Meeting: BOARD OF TRUSTEES

Members: Barbara Ermeling [c], Mark Maloney, Kevin Ostrowski, Wally Sparks, Yee Leng Xiong, Hooshang Zeyghami, Jon Ziegler, and Daniel Guild (ex-officio)

Date: Monday, April 30, 2018., at 6:00 p.m.

Location: Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476

Agenda: The agenda packet will be emailed out 3 days prior to the meeting. Notices/Agenda will be posted on the Village website.

Trustees, Department Directors, and other guests, please indicate if you will, or will not, be attending so we may determine in advance if there will be a quorum by sending an RSVP to the assigned staff advisor(s):

RSVP: Daniel Guild
dguild@westonwi.gov
(715) 359-6114

Sherry Weinkauff
sweinkauff@westonwi.gov
(715) 359-6114

PLEASE NOTE THE FOLLOWING INFORMATION:

This notice was posted at the Municipal Center, and was emailed to local media outlets on 04/23/2018 @ 4:00 p.m. Wisconsin State Statutes require all agendas for Board, Commission, and meetings be posted in final form, 24 hours prior to the meeting. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting.

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may attend the above-noticed meeting to gather information. Should a quorum of other government bodies be present, this would constitute a meeting pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553,494 N.W.2d 408 (1993).

Any person who has a qualifying disability, as defined by the Americans with Disabilities Act, requiring that meeting or material to be in an accessible location or format, must contact the Weston Municipal Center at 715-359-6114, so any necessary arrangements can be made to accommodate each request.



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN ANNUAL ORGANIZATIONAL MEETING OF THE BOARD OF TRUSTEES

TO THE HONORABLE PRESIDENT ERMELING AND SIX (6) OTHER ELECTED MEMBERS OF THE BOARD OF TRUSTEES: The following items were listed on the agenda in the village Clerk's office, in accordance with Chapter 2 of the village's Municipal Code and will be ready for your consideration, during the 22nd legislative session of the Board of Trustees, at your first gathering on **April 30, 2018, at 6:00 p.m.** in the Board Room, at the Weston Municipal Center.

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may attend the above-noticed meeting to gather information. If a quorum of other government bodies are present this would constitute a meeting pursuant to "State of Wisconsin ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553,494 N.W.2d 408 (1993)". Therefore, no official actions other than those of the BOARD OF TRUSTEES shall take place.

Wisconsin State Statutes require all agendas for Board, Commission, and Committee meetings be posted in final form, 24 hours prior to the meeting. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting. Any item on this agenda may be discussed or acted upon.

AGENDA ITEMS

1. Meeting called to order by President Ermeling.
2. Pledge Allegiance to the Flag.
3. Roll Call by Clerk.
4. Public Comments.
5. Nominate/Approve Vice-President.
6. Approve Board, Commission, Committee appointments by President Ermeling:
 - Central Wisconsin Economic Development
 - Community Development Authority
 - Everest Joint Finance Committee
 - Everest Police Commission
 - Extra-Territorial Review Committee
 - Fence Viewers
 - Finance Committee
 - Fire Chief
 - Human Resources Committee
 - Metropolitan Planning Organization
 - MCDEVOC, Inc.
 - Parks & Recreation Committee
 - Plan Commission
 - Public Safety Committee
 - Public Works & Utilities Committee
 - SAFER Board of Directors
 - SAFER Fire Commission

- Tourism
 - Weed Commissioner
 - Zoning Board of Appeals
7. Watch "Preventing Public Officials Liability Video" from League of Wisconsin Municipalities Mutual Insurance Company. Sign Affidavit.
 8. Ethics Training Memo for Local Government Officials.
 9. Presentation from Loren White on Elected/Appointed Officials Handbook (via Dropbox - link sent in email from Administrator). Adopt Handbook.
 10. Address any items related to onboarding of new Trustees.
 - Strengths Survey
 11. Discuss goals for next six months.
 12. **CONVENE INTO CLOSED SESSION** under Wisconsin State Statutes 19.85 (1) (g) for conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
 13. **RECONVENE INTO OPEN SESSION.**

FUTURE ITEMS

14. Next meeting date(s):

| | |
|----------------------------|------------------------|
| - May 21, 2018 @ 6:00 p.m. | Regular Meeting |
| - Jun 18, 2018 @ 4:00 p.m. | Board of Review |
| - Jun 18, 2018 @ 6:00 p.m. | Regular Meeting |
| - Jul 16, 2018 @ 6:00 p.m. | Regular Meeting |
| - Jul 30, 2018 @ 6:00 p.m. | Special Budget Meeting |
| - Aug 20, 2018 @ 6:00 p.m. | Regular Meeting |
| - Sep 17, 2018 @ 6:00 p.m. | Regular Meeting |
| - Oct 15, 2018 @ 6:00 p.m. | Regular Meeting |
| - Oct 29, 2018 @ 6:00 p.m. | Special Budget Meeting |
| - Nov 19, 2018 @ 6:00 p.m. | Regular Meeting |
| - Dec 17, 2018 @ 6:00 p.m. | Regular Meeting |
15. Remarks from Administrator.
16. Remarks from Trustees.
17. Remarks from President.
18. Announcements.
 - May 09, 2018 @ 11:30 a.m. All Staff Luncheon
 - Jun 08, 2018 @ 06:00 p.m. All Officials/Employee Spring Picnic
19. Adjournment

Village of Weston, Marathon County, Wisconsin
Appointments, Assignments, and Nominations 5/1/2018

Community Development Authority

| | |
|---------------------------|--------------------|
| Hooshang Zeyghami (Chair) | <u>Term</u> |
| Mark Maloney (Vice-Chair) | 2018-2019 |
| Scott Berger (citizen) | 2018-2019 |
| Dave Jelmeland (citizen) | 2018-2022 |
| Michelle Knopf (citizen) | 2018-2022 |
| Todd Hagedorn (citizen) | 2017-2021 |
| Stephen Winkels (citizen) | 2015-2019 |

Commissioner of Weeds

| | |
|------------------------|--------------------|
| Wally Sparks (Trustee) | <u>Term</u> |
| | 2018-2019 |

CWED RLF

| | |
|--------------|--------------------|
| Daniel Guild | <u>Term</u> |
| | 2018-2019 |

Everest Metro Joint Finance

| | |
|-----------------------------|--------------------|
| Barbara Ermeling (Trustee) | <u>Term</u> |
| Jon Ziegler (Trustee) | 2018-2019 |
| Hooshang Zeyghami (Trustee) | 2018-2019 |

Everest Metro Police Commission

| | |
|---------------------------|--------------------|
| Stephanie Nagel (citizen) | <u>Term</u> |
| Gil Holcomb (citizen) | 2018-2021 |
| Dave Eisenreich (citizen) | 2017-2020 |
| | 2016-2019 |

Extra-Territorial Zoning Committee

| | |
|-------------------------------|---------------------|
| Loren White (Village) (C) | <u>Terms</u> |
| Roy Mumper (Village) | 2018-2021 |
| Randy Christiansen (Town) | 2018-2021 |
| Milt Olson (Town) | 2018-2021 |
| Mark Hull (Town) (VC) | 2017-2020 |
| Tina Kollmansberger (Village) | 2016-2019 |

Fence Viewers

| | |
|--------------------------|-----------|
| Mark Maloney (Trustee) | 2018-2019 |
| Yee Leng Xiong (Trustee) | 2018-2019 |

Finance Committee

| | |
|--------------------------|--------------------|
| Mark Maloney (Chair) | <u>Term</u> |
| Jon Ziegler (Vice-Chair) | 2018-2019 |
| Carrie Sukup (citizen) | 2018-2019 |
| Dick Yaeger (citizen) | 2018-2021 |
| Bob Bender (citizen) | 2017-2020 |
| | 2016-2019 |

Fire Chief

Matt Savage

Human Resources Committee

| | |
|------------------------------|--------------------|
| Wally Sparks (Chair) | <u>Term</u> |
| Kevin Ostrowski (Vice-Chair) | 2018-2019 |
| Fred Schuster (citizen) | 2018-2019 |
| Robin Hegg (citizen) | 2018-2021 |
| Mark Porlier (citizen) | 2017-2020 |
| | 2018-2019 |

Metropolitan Planning Organization

| | |
|----------------------|--------------------|
| Barbara Ermeling | <u>Term</u> |
| Keith Donner (Alt 1) | 2018-2019 |
| | 2018-2019 |

MCDEVCO, Inc.

| | |
|--------------|--------------------|
| Daniel Guild | <u>Term</u> |
| | 2018-2019 |

Parks & Recreation

| | |
|----------------------------|--------------------|
| Yee Leng Xiong (Chair) | <u>Term</u> |
| Wally Sparks (Vice-Chair) | 2018-2019 |
| Katrina Clark (citizen) | 2018-2019 |
| Roger Esker (citizen) | 2018-2021 |
| Lindsey Lewitzke (citizen) | 2017-2020 |
| | 2016-2019 |

Plan Commission

| | |
|--------------------------------|--------------------|
| Barbara Ermeling (Chair) | <u>Term</u> |
| Hooshang Zeyghami (Vice-Chair) | 2018-2019 |
| Loren White (citizen) | 2018-2019 |
| Duane Gau (citizen) | 2018-2021 |
| Joe Jordan (citizen) | 2018-2021 |
| Tina Kollmansberger (citizen) | 2018-2021 |
| Roy Mumper (citizen) | 2016-2019 |
| | 2016-2019 |

Public Safety Committee

| | |
|-----------------------------|--------------------|
| Kevin Ostrowski (Chair) | <u>Term</u> |
| Yee Leng Xiong (Vice-Chair) | 2018-2019 |
| Robert Kienbaum (citizen) | 2018-2019 |
| Zach Martin (citizen) | 2018-2021 |
| Brian Fiene (citizen) | 2017-2020 |
| | 2016-2019 |

Public Works & Utility Committee

| | |
|------------------------------|--------------------|
| Jon Ziegler (Chair) | <u>Term</u> |
| Kevin Ostrowski (Vice-Chair) | 2018-2019 |
| Tom Hubbard (citizen) | 2018-2019 |
| Matthew Priebe (citizen) | 2018-2021 |
| John Jensen (citizen) | 2017-2020 |
| | 2016-2019 |

S.A.F.E.R. Board of Directors

| | |
|--|--------------------|
| <u>SAFER Charter – Article II</u> | <u>Term</u> |
| Barbara Ermeling (Trustee) | 2018-2019 |
| Hooshang Zeyghami (Trustee) | 2018-2019 |

S.A.F.E.R. Fire Commission

| | |
|--|--------------------|
| <u>SAFER Charter – Article III (7/1 - 6/30)</u> | <u>Term</u> |
| Jean Jackan (citizen) | 2018-2019 |
| Don Kimlicka (citizen) | 2017-2019 |

Tourism Commission

| | |
|---|--------------------|
| <u>1-year terms per 78.103(c)(1)</u> | <u>Term</u> |
| Jon Ziegler (Chair) | 2018-2019 |
| Mark Maloney (Vice-Chair) | 2018-2019 |
| Carrie Sukup (citizen) | 2018-2019 |
| Dick Yaeger (citizen) | 2018-2019 |
| Bob Bender (citizen) | 2018-2019 |
| Joyce Elliot (Hotel-rep) | 2018-2019 |
| Barbara Ermeling (ex-officio) | 2018-2019 |

Zoning Board of Appeals

| | |
|------------------------------|--------------------|
| Paul David (Alt.) | <u>Term</u> |
| Dennis Lawrence (Vice-Chair) | 2018-2021 |
| Mike Stenstrom | 2018-2021 |
| Nick Hemauer (Alt.) | 2017-2020 |
| Richard Crump | 2016-2019 |
| Brent Montague (Chair) | 2016-2019 |
| James Langkamp | 2017-2018 |



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the **Central Wisconsin Economic Development Committee**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Administrator Daniel Guild to the Central Wisconsin Economic Development Committee as a member representing the Village of Weston, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Community Development Authority**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (6) has created the **Community Development Authority** as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the management of the village’s revolving loan program, consistent with state requirements; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Hooshang Zeyghami to the Community Development Authority, as Chairperson, and Trustee Mark Maloney, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby reappoint Scott Berger, as a citizen member of the Community Development Authority, for a term of four years, from May 1st, 2018 – April 30th, 2022, as well as, Dave Jelmeland, as a citizen member of the Community Development Authority, for a term of four years from May 1st, 2018 – April 30th, 2022; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Everest Metro Joint Finance Committee**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint myself, Trustee Jon Ziegler and Trustee Hooshang Zeyghami to the Everest Metro Joint Finance Committee as members representing the Village of Weston, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Everest Metro Police Commission**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Stephanie Nagel to the Everest Metro Police Commission as a citizen member representing the Village of Weston, for a term of three years from May 1st, 2018 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Joint Extra-Territorial Zoning Committee**.

WHEREAS, the Village Board adopted Resolution #VW-02-06 *Resolution Declaring Commencement of Proceedings by the Village of Weston, WI, to Zone Extraterritorially Lands Located in the Town of Weston Under Authority of §62.23 (7a) of WI Statutes* on February 10, 2006.

WHEREAS, the Resolution directed the Village Plan Commission to proceed with creating a **Joint Extra-Territorial Zoning Committee** in accordance with §62.23(7a)(c), Wisconsin Statutes, to formulate a comprehensive district plan and regulations for the area described in the Resolution.

WHEREAS, the Board of Trustees approved the new comprehensive district plan and regulations for the extraterritorial zoning area via Ordinance adopted on January 7, 2008 and effective January 10, 2008.

WHEREAS, the adoption of this ordinance created a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the planning and zoning in the extraterritorial area; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Loren White to the Extra-Territorial Zoning Committee, as Chairperson, for a term of three years from May 1st, 2018 – April 30th, 2021, as well as Mark Hull as Vice Chairperson for the remainder of his term from May 1st, 2018 – April 30th, 2020; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Roy Mumper, as a citizen member of the Extra-Territorial Zoning Committee, for a term of three years, from May 1st, 2018 – April 30th, 2021, as well as, Randy Christiansen, as a citizen member of the Extra-Territorial Zoning Committee, for a term of three years, from May 1st, 2018 – April 30th, 2021, as well as, Milton Olson, as a citizen member of the Extra-Territorial Zoning Committee, for a term of three years from May 1st, 2017 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of Trustees as Village of Weston **Fence Viewers**.

WHEREAS, Wis. Stat. § 90.01 states the trustees of villages in their respective villages shall be fence viewers; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Mark Maloney as a Fence Viewer, and Trustee Yee Leng Xiong as a Fence Viewer; for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Finance Committee**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (1) has created the Finance Committee as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the management of public monies and taxes; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Mark Maloney to the Finance Committee, as Chairperson, and Trustee Jon Ziegler, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby reappoint Carrie Sukup, as a citizen member of the Finance Committee, for a term of three years from May 1st, 2018 – April 30th, 2021, and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, to Fire Chief.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Matt Savage at Fire Chief to S.A.F.E.R. District, and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointment will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Human Resources Committee**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (2) has created the Human Resource Committee as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the management or personnel and human resources; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Wally Sparks to the Human Resources Committee, as Chairperson, and Trustee Kevin Ostrowski, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Fred Schuster, as a citizen member of the Human Resources Committee, for a term of three years from May 1st, 2018 – April 30th, 2021 and Mark Porlier, as a citizen member of the Human Resources Committee, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 23rd day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Human Resources Committee**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (2) has created the Human Resource Committee as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the management or personnel and human resources; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Wally Sparks to the Human Resources Committee, as Chairperson, and Trustee Kevin Ostrowski, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Fred Schuster, as a citizen member of the Human Resources Committee, for a term of three years from May 1st, 2018 – April 30th, 2021 and Mark Porlier, as a citizen member of the Human Resources Committee, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 23rd day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the **Metropolitan Planning Organization**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint myself to the Metropolitan Planning Organization as a member representing the Village of Weston, for a term of one year from May 1st, 2018 – April 30th, 2019; and Director of Public Works Donner, as an Alternate; for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to **MCDEVCO, Inc.**

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Administrator Daniel Guild to MCDEVCO, Inc. as a member representing the Village of Weston, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Parks & Recreation Committee**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (5) has created the **Parks & Recreation Committee** as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the Village’s parks and recreational facilities; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Yee Leng Xiong, as Chairperson, and Trustee Wally Sparks, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Katrina Clark, as a citizen member of the Parks & Recreation Committee, for a term of three years from May 1st, 2018 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Plan Commission**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 62 – Planning Commission has created the **Plan Commission** as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the management of the physical development of the Village and extraterritorial jurisdiction; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint myself to the Plan Commission, as Chairperson, and Trustee Hooshang Zeyghami, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby reappoint Loren White, as a citizen member of the Plan Commission, for a term of three years, from May 1st, 2018 – April 30th, 2021, as well as, Duane Gau, as a citizen member of the Plan Commission, for a term of three years from May 1st, 2018 – April 30th, 2021, as well as, Joe Jordan, as a citizen member of the Plan Commission, for a term of three years from May 1st, 2018 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30rd day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk

| <u>Plan Commission</u> | <u>Term</u> |
|--------------------------------|-------------|
| Barbara Ermeling (Chair) | 2018-2019 |
| Hooshang Zeyghami (Vice-Chair) | 2018-2019 |
| Loren White (citizen) | 2018-2021 |
| Duane Gau (citizen) | 2018-2021 |
| Joe Jordan (citizen) | 2018-2021 |
| Tina Kollmansberger (citizen) | 2016-2019 |
| Roy Mumper (citizen) | 2016-2019 |



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Public Safety Committee**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (4) has created the **Public Safety Committee** as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to public safety operations; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Kevin Ostrowski, as Chairperson, and Trustee Yee Leng Xiong, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Robert Kienbaum, as a citizen member of the Public Safety Committee, for a term of three years from May 1st, 2018 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Public Works & Utility Committee**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 2 – Administration, Article II, Division 3, Section 2.214 (6) has created the **Public Works & Utility Committee** as a standing committee of the Board of Trustees to provide guidance and counsel to elected officials on matters pertaining to the management of property, facilities, buildings, and infrastructure; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Jon Ziegler to the Public Works & Utility Committee, as Chairperson, and Trustee Kevin Ostrowski, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Tom Hubbard, as a citizen member of the Public Works & Utility Committee, for a term of three years from May 1st, 2018 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the **S.A.F.E.R. Board of Directors**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint myself, and Trustee Hooshang Zeyghami to the S.A.F.E.R. Board of Directors as members representing the Village of Weston, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the **S.A.F.E.R. Fire Commission**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Jean Jackan to the S.A.F.E.R. Fire Commission as a citizen member representing the Village of Weston, for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Tourism Commission**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 78 – Taxation and Special Assessments, Article I, In General, Section 78.103 (c)(1) has created the Tourism Commission to provide guidance and counsel to elected officials on matters pertaining to tourism promotion and development; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Jon Ziegler to the Tourism Commission, as Chairperson, and Trustee Mark Maloney, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby reappoint Carrie Sukup, Dick Yaeger, and Bob Bender, as a citizen member of the Tourism Commission, for a term of one year from May 1st, 2018 – April 30th, 2019, as well as Joyce Elliot as the Hotel Representative for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of a Trustee as the Village of Weston **Commissioner of Weeds**.

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Trustee Wally Sparks as Commissioner of Weeds; for a term of one year from May 1st, 2018 – April 30th, 2019; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointment will be effective upon approval of the Board of Trustees,

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

AN APPOINTMENT, of members to the Village of Weston **Zoning Board of Appeals**.

WHEREAS, the Municipal Code of Ordinances for the Village of Weston, Chapter 94 – Zoning, Article 16, Procedures and Administration, Section 94.16.17 has created the **Zoning Board of Appeals** as a standing committee of the Board of Trustees and shall have the jurisdiction and authority as specified in Wisconsin Statutes, and shall have the following powers:

- (a) Hear and decide appeals where it is alleged there is error in any interpretation pertaining to the order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer under this Chapter.
- (b) Hear and grant requests for variances to this Chapter under Section 94.16.11.

In exercising the above mentioned powers, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issue of a permit.; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby appoint Brent Montague to the Zoning Board of Appeals, as Chairperson for a term of one year from May 1st, 2018 – April 30th, 2019 and Dennis Lawrence, as Vice Chairperson; for a term of one year from May 1st, 2018 – April 30th, 2019; and

WHEREAS, I, Barbara Ermeling, President of the Village of Weston, do hereby reappoint

Paul David, as a member of the Zoning Board of Appeals, for a term of three years, from May 1st, 2018 – April 30th, 2021, as well as, Dennis Lawrence, as a member of the Zoning Board of Appeals, for a term of three years from May 1st, 2018 – April 30th, 2021, as well as, Mike Stenstrom, as a member of the Zoning Board of Appeals, for a term of three years from May 1st, 2018 – April 30th, 2021; and

NOW THEREFORE BE IT RESOLVED by me, Barbara Ermeling, President of the Village of Weston, that my appointments will be effective upon approval of the Board of Trustees,



VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

APPOINTMENTS TO BOARDS, COMMISSIONS, COMMITTEES, ETC.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WESTON, at a regular meeting thereof, this 30th day of the month of April 2018.

VILLAGE OF WESTON, a Municipal Corporation of the State of Wisconsin.

By: _____
BARBARA ERMELING, Village President

ATTEST:

By: _____
SHERRY WEINKAUF, Village Clerk

MEMORANDUM SUMMARIZING PUBLIC OFFICIAL LIABILITY TRAINING VIDEO

1. Think and act in terms of “We” and not “I”. Once elected, you are no longer an outsider promoting your own agenda. The focus should now be to work as a collective body to achieve the Village’s goals.

2. No ex parte communications are permitted when acting in a quasi-judicial capacity, i.e. deciding Mega Mart’s Land Use Application. You must be fair and impartial, and base your decision on the evidence presented at the public hearing and the law. You should have no discussions about the pending application outside of the hearing (ex parte communications). If you have a conflict of interest, you must declare the conflict, and refrain from participating in the hearing or the decision. Think and act like a judge. If your constituents want to talk to you about a pending application, tell them that it is improper for you to discuss the application outside of the public hearing and encourage them to attend the public hearing.

3. Ex parte communications are permitted when acting in a legislative capacity, i.e. enacting a pit bull ordinance. You may discuss potential legislation with constituents outside of public meetings.

4. Refrain from personal or retaliatory actions and focus on key legislative and quasi-judicial issues.

5. Delegate administrative matters, such as personnel issues, to the Village Administrator. The Village Board should not focus on individual employees unless the employee reports directly to the Village Board.

6. Act with civility. Your words carry a lot of weight. Harsh comments can be harmful to employee morale. Keep your focus on the issues and not personalities.

7. You are not above the law. You do not receive special privileges because of your position.

8. Stay within the scope of your authority, and avoid willful and wanton conduct. If you fail to do so, you may expose yourself to personal liability that may not be covered by insurance.

EXAMPLE 1 – Conflict of Interest:

Patrick Smith was elected to city council based on his promise to never allow Mega Mart to build in his community. Mr. Smith did not recuse himself when the council had to decide Mega Mart’s Land Use Application. Had the Land Use Application been denied, the city could have been sued for a due process violation.

EXAMPLE 2 – Lawsuit Involving Library Expansion:

Mr. Smith thought it was his job to micromanage the contractor hired to construct the library expansion. Mr. Smith got into a verbal dispute with the contractor and allegedly spread rumors

affecting the contractor's reputation. The contractor sued Mr. Smith for defamation. A large verdict was rendered in favor of the contractor. Mr. Smith was personally liable for the damages because he was found to have acted outside the scope of his authorized duties and in a willful and wanton manner.

EXAMPLE 3 – Retaliation Lawsuit:

Tammy Williams fired street supervisor, Burt Simpson, for violating sexual harassment policies. Mr. Simpson was a “drinking buddy” of Mayor Joe Appleby. Mayor Appleby fired Tammy Williams as revenge for firing Mr. Simpson. Tammy Williams sued Mayor Appleby for retaliation. The jury awarded Tammy Williams \$150,000.00 in punitive damages which Mayor Appleby was required to pay out of his own pocket.

EXAMPLE 4 - Not Above the Law:

A council member was pulled over by law enforcement for speeding. The council member chastised the officer for pulling him over. “Don’t you know who I am?” The media captured this arrogant and disrespectful behavior which embarrassed the entire municipality.

ETHICS TRAINING FOR LOCAL GOVERNMENT OFFICIALS

Memo To: Village of Weston
From: Attorney Matt Yde
Dated: June 2, 2015

INTRODUCTION

You asked me to provide a training memorandum on ethics for local government officials. “Codes of ethics for local government officials, employees and candidates” (hereinafter “State Ethics Code”) is set forth in Wis. Stat. § 19.59. In addition to the State Ethics Code, the legislature has identified certain conduct by public officials and employees as criminal, such as having a private interest in a public contract (Wis. Stat. § 946.13), misconduct in office (Wis. Stat. § 946.12), bribery (Wis. Stat. § 946.10), selling items to public employees (Wis. Stat. § 175.10), purchasing claims at less than full value (Wis. Stat. § 946.14), and inducing employees to take less than the prevailing wage rate in a public construction contract (Wis. Stat. § 946.15). Furthermore, general common law conflict of interest principles apply to local government officials as well. Finally, municipalities may enact an ordinance setting higher ethical standards of conduct for its officials, employees and candidates and/or to fill in the gaps in the state law.

Although ethics should be simple and straightforward, the legislature has created complicated rules with exceptions that are anything but simple. Although this training memorandum begins with the Wisconsin Statutes that govern local government officials’ ethics and crimes, I have also provided the Wisconsin Government Accountability Board’s ethical guidelines for local public officials, which summarizes and simplifies the State Ethics Code, and advisory opinions from the Wisconsin Government Accountability Board and its predecessor, which interpret the State Ethics Code. Since the advisory opinions involve real local officials and real facts that are not uncommon, they will likely be more interesting and helpful to Village officials than the other sources.

STATE ETHICS CODE

I. Who is Governed by the Ethics Code?

Wis. Stat. § 19.59 applies to all “*local public officials*,” including the following:

- All elected officials of the Village.
- The Village Administrator.
- An appointive office or position of the Village or other local governmental unit in which the person serves for a specified term, except a position limited to the exercise of ministerial action or a position filled by an independent contractor.
- An appointed office or position of the Village or other local government unit which is filled by the governing body or the executive or administrative head of the local government unit in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of the ministerial action or a position filled by an independent contractor.

Wis. Stat § 19.42(8) defines “*ministerial action*” as “an action that an individual performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the individual’s own judgment as to the propriety of the action being taken.” In other words, if the position does not require the exercise of discretion when making decisions, the position is not subject to the State Ethics Code.

Police and fire chiefs are not subject to Wis. Stat. § 19.59 because they do not serve for a specified term, and they do not serve at the pleasure of the appointing authority. Municipal judge is considered a “state public office,” which means that Judge Weirauch is subject to the state public officials standards of conduct contained in Wis. Stat. § 19.45. Finally, the State Ethics Code does not apply to members of a local committee appointed under Wis. Stat. § 289.33(7)(a) as part of a solid waste siting resolution.

II. What Kind of Conduct does the State Ethics Code Prohibit?

A. Cannot Use Public Position for Financial Gain.

Pursuant to Wis. Stat. § 19.59(1)(a), no public official may use his public position or office “to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated.” This provision does not prohibit a local public official from using his title or prestige of his office to obtain campaign contributions that are permitted and reported as required by Ch. 11.

Wis. Stat. § 19.42(1) defines *“anything of value”* as “any money or property, favor, service, payment, advance, forbearance, loan, or promise of future employment, but does not include compensation and expenses paid by the state, fees and expenses which are permitted and reported under s. 19.56, political contributions which are reported under ch. 11, or hospitality extended for a purpose unrelated to state business by a person other than an organization.”

Wis. Stat. § 19.42(7) defines *“immediate family”* as “an individual’s spouse” and an individual’s “relative by marriage, lineal descent or adoption who receives, directly or indirectly, more than ½ of his... support from the individual or from whom the individual receives, directly or indirectly, more than ½ of his...support.”

Wis. Stat. § 19.42(11) defines *“organization”* as “any corporation, partnership, proprietorship, firm, enterprise, franchise, association, trust or any other legal entity other than an individual or body politic.”

Finally, Wis. Stat. § 19.42(2) defines *“associated,”* when used with reference to an organization, as including any organization which “an individual or a member of his...immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or

in the aggregate, at least 10% of the outstanding equity or of which an individual or a member of his or her immediate family is an authorized representative or agent.”

B. Cannot offer or Accept Gifts to Influence Local Public Officials.

Wis. Stat. § 19.59(1)(b) states that “no local public official may solicit or accept...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 a reward for any official action or inaction on the part of the local public official.” This provision does not prohibit a local public official from engaging in outside employment.

C. Cannot Promise to Act or Refrain from Acting in Exchange for a Political Contribution

Wis. Stat. § 19.59(br) states that no local public official or candidate may:

“give, or offer a promise to give, or withhold, or promise to withhold, his or her vote or influence, or promise to refrain from taking official action with respect to any proposed or pending matter in consideration of or upon condition that, any other person make or refrain from making a political contribution, or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, 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.”

D. Cannot Take Action Affecting the Public Official’s Financial Interest or Use Office or Position for Private Benefit

Wis. Stat. § 19.59(c)1 states that 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.”

Wis. Stat. § 19.59(c)2 provides that no local public official may use his 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.”

However, the above provisions do not prohibit an official from taking any action concerning the lawful payment of salaries/benefits, reimbursement of actual and necessary expenses, or with respect to any proposal to modify a municipal ordinance.

III. The Village May Enact Its Own Ethics Code

Pursuant to Wis. Stat. § 19.59(1m), the Village may enact an ordinance establishing its own ethics code for public officials, employees and candidates, and members of their immediate families. The ordinance must specify the positions to which it applies.

Pursuant to Wis. Stat. § 19.59(3), the Village's ordinance “may” contain any of the following:

- A requirement to complete a statement of economic interests consistent with what state officials are required to do pursuant to Wis. Stat. § 19.44.
- A provision directing the municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.
- A provision directing the municipal treasurer to withhold the payment of salaries or expenses from any local public officials or other Village employee who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.
- A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. The ordinance may empower the ethics board to issue opinions upon request. Records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.
- Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of Village officials and other Village employees or on the part of former Village officials or former Village employees.
- A provision prescribing forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.

Note: The above suggestions should not be construed to limit the authority of the Village to regulate the conduct of its officials and employees to the extent that it has authority to regulate that conduct under the constitution or other laws. Wis Stat. § 19.59(4)

IV. Any Individual May Request An Advisory Opinion.

Pursuant to Wis. Stat. § 19.59(5)(a), “any individual...may request...an advisory opinion regarding the propriety of any matter to which the person is or may become a party.” In addition, “any appointing officer, with the consent of a prospective appointee, may request...an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party.” A municipal ethics board, if one exists, or municipal attorney “shall review a request for an advisory opinion and may advise the person making the request.”

A. An Advisory Opinion May be Used as a Defense

If the material facts are as stated in the opinion request, an ethics opinion supporting a local public official’s conduct is prima facie evidence of intent to comply with Wis. Stat. § 19.59.

B. How Do I Make a Request for an Advisory Opinion?

A request for an advisory opinion shall be in writing. Wis. Stat. § 19.59(5)(a).

C. Will My Identity be Protected if I Request an Advisory Opinion?

The identity of a person requesting the advisory opinion and the individuals or organizations mentioned in the opinion are confidential. Wis. Stat. § 19.59(5)(a). However, pursuant to Wis. Stat. § 19.59(5)(b), the ethics board or attorney issuing the advisory opinion may make a summary of the opinion public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested, after making sufficient alterations in the summary to prevent disclosing the identities of individuals

involved in the opinion. Furthermore, a person who makes or purports to make public the substance of any portion of an advisory opinion requested by or on the behalf of the person, waives the confidentiality of the request and of any records obtained or prepared by the ethics board or attorney in connection with the request for an advisory opinion.

D. Can I Obtain An Ethics Opinion From The Government Accountability Board?

No. Only an attorney for a local governmental unit or state-wide association of local government units may request the Government Accountability Board to issue an opinion concerning the interpretation of Wis. Stat. § 19.59. The Government Accountability Board “shall review such a request” and “may advise” the person making the request. In other words, the Government Accountability Board is required to review the request, but may not provide an advisory opinion.

V. What are the Consequences for Violating the State Ethics Code?

Pursuant to Wis. Stat. § 19.59(7), any person who violates the State Ethics Code may be required to forfeit not more than \$1000 for each violation. In addition, if the court determines that the accused violated the political contribution prohibition, the court may order the accused to forfeit an amount equal to the amount or value of any political contribution, service or other thing of value that was wrongfully obtained. If no political contribution, service or other thing of value is obtained, the court may order the accused to forfeit an amount equal to the maximum contribution authorized under Wis. Stat. § 11.26(1) for the office held or sought by the official, whichever amount is greater.

A. Who Prosecutes Ethics Violations?

Pursuant to Wis. Stat. § 19.59(8)(a), the district attorney of any county where any violation occurs may pursue an action in the name and on the behalf of the state. If the district

attorney fails to commence an action within 20 days after receiving a verified complaint or if the district attorney refuses to commence such an action, the person making the complaint may petition the attorney general to act upon the complaint. If the district attorney prevails in such action, the court shall award any forfeiture recovered together with reasonable costs to the county wherein the violation occurred. If the attorney general prevails in such an action, the court shall award any forfeiture recovered together with reasonable costs to the state.

No complaint alleging a violation of the political contribution prohibition may be filed within 120 days before a general or spring election, or during the period commencing on the date of the order of the special election under Wis. Stat. § 8.50, and ending on the date of that election, against a candidate who files a declaration of candidacy to have his name appear on the ballot at that election period.

CRIMINAL STATUTES

VI. State Crimes for Public Officials and Employees

A. Felony Crime - Private Interest in Public Contract Prohibited

Wis. Stat. § 946.13 prohibits any public officer or public employee from having any private interest in a public contract. Pursuant to Wis. Stat. § 946.13(1)(a), any public officer or public employee who in the officer's or employee's private capacity, negotiates or bids for or enters into a contract in which the officer or employee has a private pecuniary interest, direct or indirect, is guilty of a class I felony, if at the same time the officer or employee is authorized or required by law to participate in the officer's or employee's capacity as such officer or employee in the making of that contract or to perform in regard to that contract some official function requiring the exercise of discretion on the officer's or employee's part.

Pursuant to Wis. Stat. § 946.13(1)(b), any public officer or public employee who, in the

officer's or employee's capacity as such officer or employee, participates in the making of a contract in which the officer or employee has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion in the officer's or employee's part, is guilty of a class I felony. Subsection (1)(b) does not apply to a public officer or public employee if his private pecuniary interest is not more than 2% of the outstanding capital stock of a corporate body involved in such contract. Wis. Stat. § 946.13(5).

The above prohibitions in (1)(a) and (1)(b) do not apply to any of the following:

- Contracts that do not involve receipts and disbursements aggregating more than \$15,000 in any year.
- Contracts involving the deposit of public funds in public depositories.
- Contracts involving loans made pursuant to Wis. Stat. § 67.12 [temporary borrowing and borrowing on promissory notes].
- Contracts for the publication of legal notices provided such notices are published at a rate not higher than that prescribed by law.
- Contracts for the issuance to a public officer or employee of tax titles, tax certificates, or instruments representing an interest in, or secured by, any fund consisting in whole or in part of taxes in the process of collection, provided such titles, certificates, or instruments are issued in payment of salary or other obligations due such officer or employee.
- Contracts for the sale of bonds or securities issued by a political subdivision of the state; provided such bonds or securities are sold at a bonafide public sale to the highest bidder and the public officer or employee acquiring the private interest has no duty to vote upon the issuance of the bonds or securities.
- Contracts with, or tax credits or payments received by public officers or employees for wildlife damage claims or abatement under Wis. Stat. § 29.899, for farmland preservation, soil and water resource management, soil erosion control, animal waste management, and non-point source water pollution abatement.
- Any public officer or public employee, who receives compensation for the officer's or employee's services, exclusive of advances or reimbursements for expenses, of less than \$10,000 per year, merely by reason of his being a director, officer, employee, agent or attorney of or for a state or national bank, savings bank or trust company, or any holding company thereof. However, this exception shall not apply to any such person whose compensation by such financial institution is directly dependent upon procuring public

business. Compensation determined by longevity, general quality of work or the overall performance and condition of such financial institution shall not be deemed compensation directly dependent upon procuring public business. Wis. Stat. § 946.13 (7).

- Contracts or transactions made or consummated or bonds issued under Wis. Stat. § 66.1103 [Industrial Development Revenue Bonds]. Wis. Stat. § 946.13 (8).
- To the member of a local committee appointed under Wis. Stat. § 289.33 (7)(a) acting as a member of that committee in negotiation, arbitration or ratification of agreements under Wis. Stat. § 289.33 [Local Landfill Siting Committee]. Wis. Stat. § 946.13 (9).
- Member of a local workforce development board established under 29 USC 2832 or to a member of the council on workforce investment established under 29 USC 2821. Wis. Stat. § 946.13 (10).

1. Contracts Entered Into Violation of Wis. Stat. 946.13 Are Void

Pursuant to Wis. Stat. § 946.13 (3), a contract entered into in violation of Wis. Stat. § 946.13 is void and the political subdivision incurs no liability thereon. The only exception to this rule is if the contract creates a public debt as defined by Wis. Stat. § 18.01 (4) and the requirements of Wis. Stat. § 18.14 (1) have been met.

2. What Is The Penalty For Violating Wis. Stat. § 946.13?

The current penalties for a class I felony include a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50 (3)(i).

B. Felony Crime - Misconduct in Public Office

Pursuant to Wis. Stat § 946.12, any public officer or public employee who does any of the following is guilty of a class I felony:

- Intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the officer's or employee's office or employment within the time or manner required by law; or
- In the officer's or employee's capacity as such officer or employee, does an act which the officer or employee knows is in excess of the officer's or employee's lawful authority; or
- Whether by an act of commission or omission, exercises a discretionary power in a manner inconsistent with the duties of the officer's or employee's position with intent to

obtain a dishonest advantage for the officer or employee or another; or

- Intentionally falsifies an entry in an account or record book or return, certificate, report or statement; or
- Intentionally solicits or accepts for the performance of any service or duty anything of value which the officer or employee knows is greater or less than is fixed by law.

1. What is the Penalty for Misconduct in Public Office?

Any public officer or public employee who violates Wis. Stat. § 946.12 is guilty of a class I felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50(3)(i).

C. Felony Crime - Bribery

Pursuant to Wis. Stat. § 946.10(2), any public officer or public employee who directly or indirectly accepts or offers to accept any property or any personal advantage, which the officer or employee is not authorized to receive, pursuant to an understanding that the officer or employee will act in a certain manner in relation to any matter which by law is pending or might come before the officer or employee in the officer's or employee's capacity or that the officer or employee will do or omit to do any act in violation of the officer's or employee's lawful duty, is guilty of a class H felony.

1. What is the Penalty for Bribery?

A class H felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both. Wis. Stat. § 939.50(3)(h).

D. Misdemeanor - Sales to Employees Prohibited

Wis. Stat. § 175.10 prohibits any political subdivision or member or officer of the Village Board from selling to any employees of the Village any article, material, product or merchandise of whatsoever nature, excepting meals, public services and such specialized appliances and

paraphernalia as may be required for the safety or health of the employees. This prohibition shall not apply to any department, officer, or employee while engaged in any recreational, health, welfare, relief, safety or educational activities furnished by this State or any political subdivision thereof.

1. *What is the Penalty for Violating Wis. Stat. § 175.10?*

Any person violating Wis. Stat. § 175.10 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail not less than 30 days nor more than 90 days, or both. Wis. Stat. 175.10(2).

E. Felony Crime - Purchasing Claims at Less Than Full Value

Pursuant to Wis. Stat. § 946.14, any public officer or public employee who in a private capacity directly or indirectly intentionally purchases for less than full value or discounts any claim held by another against the Village or against any public fund is guilty of a class I felony.

1. *What is the Penalty for Violating Wis. Stat. § 946.12?*

Violating Wis. Stat. § 946.14 is a class I felony, which is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50(3)(i).

F. Felony Crime - Public Construction Contracts at Less Than Full Rate

Wis. Stat. § 946.15 prohibits any employer from inducing any person who seeks to be or is employed pursuant to a public contract or who seeks to be or is employed in a project in which a prevailing wage rate determination has been issued by the department of workforce development, to give up, waive or return any part of the compensation to which that person is entitled under contract or under the prevailing wage rate determination or who reduces the hourly

basic rate of pay normally paid to an employee for working a project on which a prevailing wage rate determination has not been issued during a week in which the employee works both on a project on which a prevailing wage rate determination has been issued and on a project on which a prevailing wage rate determination has not been issued.

Wis. Stat. § 946.15 also prohibits any employer from inducing any person who seeks to be or is employed in a project in which a prevailing wage rate determination has been issued, to permit any part of the wages to which that person is entitled and the prevailing wage rate to be deducted from the person's pay.

1. What is the Penalty for Violating Wis. Stat. § 946.15?

Violating Wis. Stat. § 946.15 is a class I felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both. Wis. Stat. § 939.50(3)(i).

WISCONSIN GOVERNMENT ACCOUNTABILITY BOARD GUIDELINES

The Wisconsin Government Accountability Board has prepared 3 publications to assist with the interpretation of Wisconsin standards for local official conduct.

I. Citizen's Guide to Standards of Conduct for Local Government Officials

In general, a local public official should not:

- Act officially in the matter in which the official is privately interested
- Use government position for private financial benefit
- Accept transportation, lodging, food, beverages, anything else of more than token value offered because the official holds a government position
- Solicit or accept rewards or items or services likely to influence the official
- Offer or provide influence in exchange for campaign contributions
- Be financially interested in a government contract the value of which exceeds \$15,000 and for which the official is authorized to take some discretionary action

II. Mitigating Conflicting Interests: Private Interests vs. Public Responsibilities

In a representative democracy, the representatives are drawn from society, and therefore, cannot and should not be without all personal and economic interest in the decisions and policies of government. Standards of conduct for public officials need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society and those conflicts which are substantial and material.

A. Making Policy

When a local public official or a board, commission or other body of which an official is a member is called upon to propose or to act on an ordinance or to promulgate or issue a general policy, the official may participate in that action, even though the action will affect the official, a member of the official's immediate family, 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 interests, the interest of a member of the official's immediate family, nor the interest of the business or organization with which the official is associated is significant when compared to all affected interests in the class; AND
- The action's effect on the interest on the official, of a member of the official's immediate family, or of the related business or organization is neither significantly greater nor less than upon other members of the class.

B. Applying Policy

Local public officials should not, in an official capacity, participate in or perform any discretionary action with respect to the making, grant, or imposition of an award, sanction, permit, license, zoning change, contract, offer of employment or agreement in which the official or a member of the official's immediate family or business or organization with which the official is associated has a substantial financial interest, direct or indirect. In addition, local

public officials should not, in an official capacity, participate in a matter affecting a business or organization from which the official or a member of the official's immediate family receives substantial compensation or income.

C. How to Withdraw from Official Action

When a matter in which a public official should not participate comes before a board, commission, or other body of which the official is a member, the official should leave that portion of the body's meeting involving discussion, deliberations, or votes related to that matter and ask that the body's minutes reflect the absence. The body's remaining members may review the matter and take whatever action they find appropriate.

D. Acting in a Private Capacity.

Usually, a local public official should not, in a private capacity, apply, negotiate, bid for, or receive any award, sanction, permit, license, zoning change, contract, offer of employment, or agreement in which the official has a private financial interest, direct or indirect, if the official is authorized to perform in regard to it any government function requiring the exercise of discretion, even if the official does not participate in the governmental action or exert any influence on his own behalf.

E. Receipt of Food, Drink, Favors, Services, Etc.

Local public officials should not accept:

1. Items or services offered because of public position.
2. Items that could influence judgment.
3. Rewards for official action.
4. Transportation or traveling accommodations.

However, public officials may accept and retain:

1. Items and services which are offered for a reason unrelated to the recipient's holding a public position and which could not reasonably be expected to influence an official's vote, official actions or judgments, nor reasonably be considered a reward for any official action or inaction;
2. Expenses provided by or for the benefit of the local governmental unit, not for a private benefit; and
3. Items of insubstantial value.

To analyze a situation in which a public official is offered items or services, the public official should ask the following questions:

1. With the respect to the item or service offered:
 - a. Is it being offered because of my public position?
 - b. Is it of more than nominal or insignificant value?
 - c. Is it primarily for my personal benefit rather than for the benefit of my local unit of government?

If you answered "yes" to all 3 questions, you may not accept the item or service.

2. Would it be reasonable for someone to believe that the item or service is likely to influence my judgment or actions or that it is a reward for passed action?

If you answer "yes", you may not accept the item or service.

GOVERNMENT ACCOUNTABILITY BOARD ADVISORY OPINIONS

The Wisconsin Government Accountability Board and its predecessor have published numerous advisory opinions interpreting the State Ethics Code for local government officials. These advisory opinions are important because they involve real people with factual situations that are common. As a result, I have summarized the advisory opinions that I thought would be most helpful for the Village trustees, commissioners, and committee members.

I. 2007 Wis Eth Bd 9-Local Officials-Disqualification

A town board supervisor owns and resides on a parcel of land adjacent to a town park. The board of supervisors may consider improvements or alterations to the park. Does the supervisor's

ownership of property proximate to the town park limit the supervisor's involvement in the board's future discussions, deliberations, and votes concerning improvements to and alterations of the park?

The Ethics Board reviewed the elements of Wis. Stat. § 19.59(1)(a) and Wis. Stat. § 19.59 (1)(c)1. and 2., and provided the following advice:

(1) If a matter before a town board is reasonably likely to have more than a trivial, insignificant, or insubstantial financial effect on a supervisor, then the supervisor should abstain from discussion, deliberation, and votes on that matter.

(2) If a matter before a town board has no effect or only a trivial, insignificant, or insubstantial financial effect on a supervisor, then the supervisor should participate; and

(3) If reasonable people cannot reasonably foresee the effect of a board of supervisor's action on a supervisor's financial interest or disagree whether the effect will be positive or negative or will be substantial or insignificant then the supervisor's financial interest is too speculative to deny the supervisor's participation in related discussion, deliberation, and votes, and the supervisor should participate unless, in the supervisor's judgment, to do so would undermine public confidence in the decision or in government.

II. 2003 Wis Eth Bd 17-Local Code-Disqualification

The Village has a waste water treatment system that serves several hundred customers; ½ of the properties in the Village use private systems that are not connected to the public sewer system. Approximately 1/5 of the customers of the public system use private pumps to bring their sewage into the public sewer main. The pumps that are owned, operated, and maintained by the customers are not a part of the public sewer system. Approximately 20 of these users deposit their waste into a force main, rather than into a gravity main. The Village has been experiencing sewage back up from the force main. In the interest of environmental protection, the Village hired a consultant that has developed several alternatives for improving the sewage system. For

each alternative, there are a number of different financing schemes available. Depending on which improvement proposal is selected and its method of financing, owners of the property using pumps could pay more than others or cost could be spread more evenly among all sewage system users. Two members of the 5-member Village Board own property that use pumps delivering sewage into the force main. One of those two members is also a member of the Board's Waste Water Committee. Should the Board members who own property that will be affected participate in decisions concerning improvements to the sewage system and the payment of the costs of those improvements?

The Ethics Board advised as follows:

- (1) If the sewer improvement does not personally and substantially benefit the property interest of a Village trustee, the trustee is not disqualified.
- (2) If the sewer improvement personally and substantially benefits the property interest of a Village trustee, but the improvement also confers a substantial benefit on all or a sizeable portion of the Village's property owners, the trustee is not disqualified.
- (3) If the sewer improvement produces a substantial or personal benefit to the trustee's property interest that is not common to all or a sizeable portion of the Village's property owners, but the Village assesses the improvements' costs to the property owners who are the beneficiaries of the improvement, the trustee is not disqualified.
- (4) If the sewer improvement produces a substantial or personal benefit to the trustee's property interest that is not common to all or at least to a sizeable portion of the Village's property owners, and the Village assesses the improvements' costs property owners who do not benefit from the improvements ordered, the trustee should not participate in discussions and actions that have as their goal the transfer of the costs of the sewer improvements to the trustee's property to others in the Village.

III. 2013 GAB 01-Local Officials-In Property Use of Office

One member of the city council is an employee of a local business. That member prepares

documentation on the business's product for use by customers. A second member of the city council has a spouse who is also an employee of the business. The spouse is a trainer for the business's customers. The business is currently planning a major expansion that could involve the construction of a number of new office buildings that could accommodate thousands of new employees. This expansion would likely require the city council to grant rezoning and conditional use permits. What, if any, restriction does the Ethics Code place on the council members' participation in city decisions affecting the business?

Wis. Stat. § 19.59 generally prohibits a local public official (1) from using his office to obtain anything of substantial value or of a substantial benefit for himself or for an organization with which the official is associated or (2) from taking any official action substantially affecting a matter in which the official or an organization with which the official is associated has a substantial financial interest. In addition, the statute prohibits a local public official from accepting anything of value "if it could reasonably be expected to influence the local public official's vote, official actions, or judgment."

Since neither city council member is a director, officer or trustee, or owns or controls at least 10% of the outstanding equity of the local business, neither city council member is "associated" with the business within the meaning of the statute. Thus, unless the individual's or spouse's employment or compensation would be affected by the city's decisions regarding the business's planned expansion, Wis. Stat. § 19.59(1)(a) and (c) are unlikely to serve as a bar to the city council members' participation in those decisions.

However, Wis. Stat. § 19.59(1)(b) provides that an official may not accept anything of value if it could reasonably be expected to influence the official's vote, actions, or judgment. In addition, a public officer owes an undivided duty of loyalty to the public whom he or she serves.

With respect to the city council member employed by the business, the Wisconsin Ethics Board has repeatedly found that it is reasonable to expect an individual's judgment to be affected when acting on a matter in which the individual's employer has a demonstrated financial interest. We agree with that conclusion. Indeed, common sense tells us this. Employees generally have a natural loyalty to their employers and issues of promotion, retention, and compensation are likely always to be present. It is reasonable to conclude that such loyalty can conflict with the duty of undivided loyalty to the city, even in any given instance both entities may benefit. Certainly, such considerations cannot be entirely cleaned from official decision-making. Our opinion is consistent with the view of the courts expressed in several cases that if a local official votes on a contract in which the official's employer has an interest, the contract is void. *Heffernan v. City of Green Bay*, 266 Wis. 534 (1954); *Ballenger v. Door County*, 131 Wis. 2d 422 (Ct. App 1986). There may, of course, be matters that come before the city council that would have only a minor impact on the business and it may be fine for the council member to participate in those matters. But a zoning issue of significant impact, such as that here, is not minor.

As for the city council member whose spouse is employed by the business, Wis. Stat. § 19.59 does not apply because the city council member is not receiving anything of value directly from the business so as to trigger application of the statute. Nevertheless, the official's spouse is accepting her salary from the business. The city council member benefits from that salary. For this reason, a spouse's employment could reasonably affect the city council member's judgment. Therefore we caution that member to be mindful of the common law duty of undivided loyalty to the city when acting in an official capacity.

IV. 1994 Wis Fth Bd 5-Local Code; Disqualification; Employment Conflicting With Official Duties; And Proper Use of Office

City official A is employed by a company which is principally owned by an individual

who also owns a substantial interest in a building in the city's downtown. The city is currently exploring the possibility of leasing or purchasing the building. City council official B is an architect employed by an architectural firm which has been retained by the current owners to develop plans for the building. Should a city council member participate in the city's decision to lease or purchase a building if the member's employer has a substantial pecuniary interest in the matter?

The Ethics Board advises that the two city council members should not participate in any official discussion, consideration, or vote concerning a city's lease or purchase of a building while each simultaneously derives income from a business that itself has, or from a business whose principle owner has, a direct financial stake in the outcome of the city's decision.

Wis. Stat. § 19.59(1)(b) provides that an official may not accept anything of value if it could reasonably be expected to influence the official's vote, actions, or judgment. In addition, a public officer owes an undivided duty of loyalty to the public whom he or she serves. The question then becomes whether official A's or official B's continued employment with their respective employers could reasonably be expected to influence their judgment with respect to the city's lease or purchase of the building. This is an objective test, not a subjective one. The answer is what a reasonable person could expect under the circumstances. In our view, the council members' continued employment by parties having a demonstrated interest in the city's decision on the building could reasonably be expected to influence their judgment in the city's decision to lease or purchase the building.

CONCLUSION

As a local official, you have an undivided duty of loyalty to the Village. An official should not do or accept anything that could be perceived as influencing or compromising this

undivided duty of loyalty to the Village. When in doubt, a confidential advisory opinion should be requested from the Village Attorney.

**END OF
PACKET**