



**Village of Weston, Wisconsin  
MEETING NOTICE**

Meeting of: **Human Resources Committee**

Members: **Ziegler {c}, Hackbarth, Schuster, Simmons and Fiene {vc}**

Staff: **Sherry Weinkauf, Clerk/Employee Resources Manager**

Date/Time: **Monday, June 1<sup>st</sup> , @ 4:30 P.M.**

Location: **Weston Municipal Center (5500 Schofield Ave) – Board Room**

Agenda: **The agenda packet will be sent out at least 3 days prior to the meeting.**

Attendance: **All Village officials are encouraged to attend. Committee Members, Department Directors, and 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.**

RSVP to: **Sherry Weinkauf, Clerk/Employee Resources Manager**  
**(715) 241-2626**  
[sweinkauf@westonwi.gov](mailto:sweinkauf@westonwi.gov)

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**This notice was posted at the Municipal Center and was e-mailed to local media outlets (Print, TV, and Radio) on 05/27/2020.**

A quorum of members from other Village governmental bodies (boards, commissions, and committees) may attend the above-noticed meeting in order to gather information. No actions will be taken by any other board, commission, or committee of the Village, aside from the Village Plan Commission. 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).

Wisconsin State Statutes require all agendas for Committee, Commission, or Board 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 person who has a qualifying disability as defined by the Americans with Disabilities Act requires that meeting or material to be in accessible location or format must contact the Weston Municipal Center, by 12 noon, the Friday prior to the meeting, so any necessary arrangements can be made to accommodate each request.



**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN  
MEETING AGENDA OF THE HUMAN RESOURCES COMMITTEE**

Weston Municipal Center Board Room  
5500 Schofield Avenue, Weston, WI 54476

*The Public may attend the meeting virtually. See the instructions under  
Public Comments below.*

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**Monday, June 1, 2020 @ 4:30 p.m.**

**AGENDA ITEMS.**

1. Call to Order by Chairperson Ziegler
2. Roll Call by Recording Secretary Flory.
  - a. Ziegler {c}, Hackbarth, Schuster, Simmons and Fiene {vc},
3. [Approval of minutes from previous meeting: February 24, 2020.](#)

**PUBLIC COMMENTS** (At this point the President will ask if there are any comments to be heard from the public).

**Join Zoom Meeting by Computer (audio only meeting to make comments):**

<https://zoom.us/j/93376572452>

**Join Zoom Meeting by Phone (audio only meeting to make comments):**

+13126266799,,93376572452# US (Chicago)  
+19294362866,,93376572452# US (New York)

Meeting ID: 933 7657 2452

**NEW BUSINESS.**

4. [Discuss Operations During COVID 19 Orders and Acknowledge Contagious Temporary Illness Policy](#) (Approved by the Board of Trustees at a special meeting held on April 2<sup>nd</sup>)
5. [Re-opening access to the Municipal Center](#)
6. [Social Media Policy](#)

**UNFINISHED BUSINESS.**

7. [Aquatic Center Season Planning](#)

**FUTURE ITEMS.**

8. Next meeting date: June 22, 2020
9. Topics for future meetings
10. Remarks from Staff
11. Remarks from Committee members
12. Announcements

**ADJOURNMENT.**

VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN  
OFFICIAL MEETING MINUTES OF THE HUMAN RESOURCES COMMITTEE

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Monday, February 24, 2020 @ 6:00 p.m.

AGENDA ITEMS.

1. **Call to Order & Welcome by Chairperson Fiene.**  
Meeting called to order by Chairperson Fiene at 6:00 p.m.
2. **Roll Call by recording Secretary Flory.**

<b>MEMBER</b>	<b>PRESENT</b>
Fiene, Nate	YES
Hackbarth, Linda	YES
Schuster, Fred	YES
Simmons, Ryan	YES
Zeyghami, Hooshang	YES

3. **Approval of minutes from previous meeting.**

*Motion by Schuster, second by Simmons to approve the minutes of January 27, 2020.*

Yes Vote: 5      No Votes: 0      Abstain: 0      Not Voting: 0      Result: Pass

<b>MEMBER</b>	<b>PRESENT</b>
Fiene, Nate	YES
Hackbarth, Linda	YES
Schuster, Fred	YES
Simmons, Ryan	YES
Zeyghami, Hooshang	YES

4. **Public comments.**  
There were no public comments made.

NEW BUSINESS

5. **Acknowledge Village of Weston/Everest Metro Police EAP Utilization Report**  
Weinkauff stated this is for acknowledgement only. She also said it's good to see the employees are taking advantage of the EAP program.

*Motion by Zeyghami, second by Hackbarth to acknowledge the Village of Weston/Everest Metro Police EAP Utilization Report*

Yes Vote: 5      No Votes: 0      Abstain: 0      Not Voting: 0      Result: Pass

<b>MEMBER</b>	<b>PRESENT</b>
Fiene, Nate	YES
Hackbarth, Linda	YES
Schuster, Fred	YES
Simmons, Ryan	YES
Zeyghami, Hooshang	YES

**6. Discussion of Sec. 5: Job Classification and Compensation of the Employee Personnel Policies and Procedures Handbook**

Donner stated this is being brought back after a question was raised by the chair regarding the mid-point or market rate classification and compensation matrix. Chairperson Fiene had asked about the CPI and the word “proficient” being used in the policy. Donner said the Board adopted this policy. The mid-point of the pay grade compares to the market rate. Hackbarth referenced the performance bonuses language in section 5.12 and recommends the wording to be changed to merit increase. A rating scale should also be included in the policy. Hackbarth also referenced Section 5.10 and suggested there be clarification on moving new hires along to remain externally and internally aligned. She asked about a timeline for this. Donner says within 5 years they should be able to reach the mid-point of their pay grade.

**7. Acknowledge “Ad-Hoc” Tele-Commuting Agreement for Valerie Parker, Planning & Development Department Technician**

Schuster asked if Parker is answering department phone calls. Flory said that phone calls are being forwarded to the Assistant Planner. Hackbarth asked how her work was being monitored. Donner said there is a monitoring system in place. Parker is a trustworthy employee and staff has no worries that she is not doing what she is supposed to be doing. Zeyghami asked if Parker is using her time-off banks. Donner said yes. She has plenty of banked time.

**Yes Vote: 5      No Votes: 0      Abstain: 0      Not Voting: 0      Result: Pass**

<b>MEMBER</b>	<b>PRESENT</b>
Fiene, Nate	YES
Hackbarth, Linda	YES
Schuster, Fred	YES
Simmons, Ryan	YES
Zeyghami, Hooshang	YES

**UNFISHED BUSINESS.**

**8. Update on options for filling vacancy of Aquatic Center Manager/Public Works Maintainer/Operator**

Donner reported the YMCA provided the Village a proposal to manage the Aquatic Center. The proposal amount is \$35,000 for the first year, \$30,000 for the second year, and a 2% increase the third year. Marathon County provided a \$21,000 proposal, and the Village would continue to do the onboarding of Aquatic Center staff. Staff recommendation is to proceed with a 3-year YMCA contract. Osterbrink said the YMCA provided their proposal verbally. They will do the entire management. All employees will be employees of the

YMCA. The Park and Recreation Committee recommends the YMCA contract because it is a 3-year contract. The next step is to prepare a contract.

### **FUTURE ITEMS.**

**9. Next regular meeting date: March 23, 2020**

**10. Topics for future meetings.**

**11. Remarks from Staff.**

Donner acknowledged Clerk's staff and the recent Feb 18<sup>th</sup> Election.

**12. Remarks from Committee members.**

Fiene also acknowledged the Clerk's staff and their hard work during the last election

**13. Announcements.**

None

### **ADJOURNMENT**

***Motion by Schuster, second by Simmons to adjourn the meeting at 6:43 p.m.***

**From:** [Keith Donner](#)  
**To:** [All Staff](#)  
**Subject:** Contagious Temporary Illness policy  
**Date:** Friday, April 3, 2020 4:35:30 PM  
**Attachments:** [Weston FFCRA policy\\_200402.pdf](#)  
[DOL\\_FamilyFirstCoronavirusResponseActPoster.pdf](#)

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All:

At the special meeting of the Board of Trustees on April 2, 2020, conducted by conference call, the attached policy was approved.

A modification has been made in Section G, 2 titled Personal Travel and I made President Sparks aware of this earlier today. The original policy included a paragraph c and d the first for domestic travel within the U.S. and the second for what must have been a unique situation for Sheboygan with an employee commuting from Illinois. After initially changing it for travel to adjacent counties, Paragraph d has now been eliminated and paragraph c has been modified. For consistency it now just treats travel within and outside the state of Wisconsin and within the United States the same in that people need to follow CDC guidelines on risk assessment.

Copies will be posted along with the required poster from the Department of Labor.

As the COVID-19 pandemic increases in Marathon County and across the U.S., I want to remind all Village employees how much we appreciate your commitment and perseverance during this tremendously difficult time. This is the time when the public needs you the most.

With that said, we are committed to support you both at home and at work.

- We will try to keep everyone working and earning a paycheck during this time
- We will alter work schedules when possible to balance life and work issues and to deter the spread of COVID-19
- We will encourage and support telework options for employees and those who are able have been doing so for the past few weeks.
- We will comply with recent COVID-19 legislation impacting employees and their families, namely the Families First Coronavirus Response Act (FFCRA)

Under the Families First Coronavirus Response Act (FFCRA), employees may be entitled to paid sick and/or family leave for specific reasons related to COVID-19. This leave entitlement and the below related provisions will apply to leaves taken from April 1, 2020 through December 31, 2020.

That said, in our meetings yesterday I explained that the FFCRA allows public employers to exempt emergency responders from those parts of the Act the employer specifies. **This is important for the Village or any public employer as the services we provide are most needed in times of emergency.** The Department of Labor definition of emergency responder is quite broad and is discretionary on the part of the employer:

### **Who is an emergency responder?**

For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose

services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, **law enforcement officers**, correctional institution personnel, **fire fighters, emergency medical services personnel**, physicians, nurses, public health personnel, **emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.** This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state's or territory's or the District of Columbia's response to COVID-19.

The reality is we could probably call all employees of the Village emergency responders for various reasons and different emergency scenarios.

In the Village's Contagious Temporary Disease policy the following positions have been declared exempt (page 5):

- Village Administrator
- Village Clerk
- All Department Directors
- Building Inspectors
- All Public Works & Utilities field employees and supervisors (this includes Parks)
- Utility Clerk and Assistant Utility Clerk
- Staff providing election services

Others could be added if the situation required.

Emergency responders are exempt from the FFCRA except for the reasons specified in the Village's policy, item No. 15 on page 8. Key points in the Village's policy are:

- Emergency Responders are identified and exempt from provisions of the FFCRA except they will be eligible to apply for 80 hours of paid Emergency Sick Leave under 3 criteria in the FFCRA.
- Other employees are eligible to apply for both ESL and Emergency Family Medical Leave Extension Act benefits under the criteria in the FFCRA.
- Current provisions for PTO, MLB, and FMLA apply otherwise.
- Employees may accrue a 10 day (80 hour) PTO deficit to be repaid by accrual within 12 months during the pandemic period.

Please don't hesitate to contact your department director or me if you have questions or concerns.

Thank you again for all you do and stay safe.

# REQUEST FOR CONSIDERATION

<b>Public Mtg/Date:</b>	Human Resources Committee, June 01, 2020
<b>Description:</b>	Discuss Operations During COVID 19 Orders and Acknowledge Contagious Temporary Illness Policy
<b>From:</b>	Keith Donner, P.E., Administrator
<b>Question:</b>	Acknowledge Contagious Temporary Illness Policy adopted by Board of Trustees on April 2, 2020.

## Background

To say the least, the past few months have been a roller coaster ride for everyone. Declarations of Emergency from the Federal Government and the State were followed by the State DHS Secretary Designee's Safer at Home order. Through the uncertainty the Village, like other essential businesses has attempted to carry on routine business while also trying to understand the seemingly constant changes with new regulations. The biggest challenges were with carrying out election process while attempting to follow safeguards for employees and the public. We will discuss more with the committee at the meeting Monday.

The attached e-mail of April 3 summarizes some of the things we were attempting to address regarding the Families First Corona Virus Response Act (FFCRA) which was enacted on March 18, 2020 and became effective April 1, 2020. There was much information being shared among trade associations, law firms, and governmental agencies in advance of the legislation becoming effective. A poster and fact sheet from the US Department of Labor is attached. The FFCRA allows employers to exempt workers classified as emergency responders, from the Emergency Sick Leave (ESL) and Emergency Family and Medical Leave Expansion Act (EFFMLEA) provisions of the FFCRA. A Temporary Contagious Illness policy was adopted by the Village on April 2, 2020, modeled after a similar policy adopted by the City of Sheboygan.

Key points of the policy include: **1.)** Emergency Responders are identified and exempt from provisions of the FFCRA except they will be eligible to apply for 80 hours of paid Emergency Sick Leave under 3 criteria in the FFCRA; **2.)** Other employees are eligible to apply for both ESL and Emergency Family Medical Leave Extension Act benefits under the criteria in the FFCRA; **3.)** Current provisions for PTO, MLB, and FMLA apply otherwise; **4.)** Employees may accrue a 10-day (80 hour) PTO deficit to be repaid by accrual within 12 months during the pandemic period.

The FFCRA remains in effect through December 31, 2020.

<b>Attached Docs:</b>	K. Donner e-mail dated April 3, 2020 US Department of Labor poster and fact sheet Village of Weston "Contagious Temporary Illness Policy"
<b>Prior Review:</b>	Village Board of Trustees, April 2, 2020.

## Recommended Language for Official Action

**Acknowledge work product, OR Something else?**

**Additional action:** To be determined

	<b>Title:</b> Contagious Temporary Illness		<b>Policy Number:</b> HR 13-2001	
	<b>Author:</b> Keith Donner, Administrator		<b>Created:</b> 03/31/2020	<b>Revision:</b> New
	<b>Scope:</b> Village wide		<b>Print Date:</b> 4/3/20 1:30 p.m.	
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## I. PURPOSE

The purpose of this policy is to prevent the spread of illnesses and diseases between Village employees, and the public with whom employees interact.

## II. POLICY

The Village's primary goals when addressing contagious illness are to:

- Safeguard the community (residents, business, and visitors);
- Deter the spread of the contagious temporary illness within capabilities;
- Provide essential services to the community; and
- Safeguard Village of Weston employees

In this regard, the interest of the entire workforce and the public may outweigh the interest of the individual. Illnesses under this policy include influenza, measles, leprosy, H1N1, Severe Acute Respiratory Syndrome (SARS), tuberculosis, COVID-19, and any other identified pandemic illness.

## III. CONTAGIOUS TEMPORARY ILLNESS

### A. General Policy

The Village's decisions regarding employees who have a contagious temporary illness will be based upon:

- Current and informed medical information concerning the illness,
- The risks of transmitting the illness to others,
- The symptoms and special circumstances of each employee who has a contagious temporary illness, and
- A careful weighing of the identified risk, and available alternatives for responding to an employee with a contagious temporary illness.

Cases of pandemics are subject to rapid change. The Village needs to maintain flexibility to respond to rapidly changing information and respond accordingly. Therefore, the matters addressed in this policy are subject to change during one pandemic, and for different pandemics.

### B. Absenting Employees Showing Symptoms from Work

1. During a pandemic, the Village encourages employees with symptoms of a contagious illness to stay away from work and remain at home. The Village reserves the right to temporarily prohibit any employee who displays the symptoms of a contagious illness or disease and, in the Village's determination, poses a direct threat to the workplace from working or from being at a Village of Weston workplace building, facility, job site, program, and/or function. Employees must immediately and fully comply with their supervisor's directions to leave such places when directed by their supervisor to do so. Upon the supervisor's decision to temporarily prohibit an employee from working because of their symptoms of a contagious illness, the supervisor shall notify their Department Director and the Human Resources Office. The supervisor's decision shall be final. Employees who have contagious illness symptoms shall not come into work until they are free of symptoms for at least 24 hours without the use of symptom-altering medications or such later time as the Centers for Disease Control (CDC) may promulgate, from time to time, for a particular contagious illness.
2. In the event an employee is confirmed to have the contagious illness, the employee must immediately inform their supervisor. The supervisor must then confidentially notify their Department Director, the Human Resources Office, and the Administrator. The Human Resources Office or Administrator should inform Village co-workers of their possible exposure to such contagious illness in the workplace but will make efforts to maintain confidentiality as required by the Americans with Disabilities Act (ADA) and other

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applicable laws. Village employees exposed to a co-worker who has a confirmed contagious illness should refer to CDC for guidance on [how to conduct a risk assessment](#) of their potential exposure.

3. For employees who themselves have not been diagnosed with contagious illness but who have a family or household member who has been so diagnosed, such employees must immediately notify their supervisor. The supervisor must then confidentially notify their Department Director and the Human Resources Office or Administrator. Such employee should refer to CDC for [guidance on how to conduct a risk assessment](#) of their potential exposure.
4. Supervisors are encouraged to remind employees that the Village provides paid time off (PTO) to cover absences because of contagious temporary illnesses. Additionally, employees are able to use medical leave bank (MLB) for qualifying medical events in accordance with Chapter 13 of the Village Employee Personnel Policies and Procedures Handbook. Employees are reminded that the Village sponsors annual seasonal influenza vaccinations during the fall. Employees are encouraged to contact the Human Resources Office or the Administrator regarding questions of the possible contagious nature of another employee's temporary illness.
5. An employee showing contagious illness symptoms who has exhausted their available PTO, and if applicable, MLB, and is unable to return to work, may use any other accrued and unused paid time off benefits. If no paid-time-off benefits are available, then the employee must continue to stay home until the illness passes, as set forth elsewhere in this policy. In such instances, employees may be advanced up to ten (10) days of MLB. The employee must pay back this advancement through accrual of PTO converted to MLB within the next 12 months. If the employee has a negative MLB balance at the time of separation from employment with the Village, the negative balance will be reconciled through payroll adjustment on the employee's final check.
6.
  - a. As of 1 April 2020, under the 2020 COVID-19 pandemic, the Village will not require a medical slip from a health care professional for any illness on the condition that the employee timely and fully follows the provisions and directives of the CDC and Village Policies.
  - b. Please refer to the Village's Family and Medical Leave Act policy for further information regarding whether a particular contagious illness of the employee or immediate family member may be covered by the state or federal FMLA.
7.
  - a. By CDC definition, "Isolation" separates sick people with a contagious disease from people who are not sick. "Quarantine" separates and restricts the movement of people who were exposed to a contagious disease to see if they become sick.
  - b. In either case, employees who isolate or quarantine must not be at work and will be eligible to use their available accrued, unused paid time off benefits in the following order: PTO, other available accrued and unused paid time off benefits, and MLB. If needed, employees may be advanced up to 10 days of discretionary PTO which must be paid back as described in Section III, B, 5, above. As an alternative, such employee may be able to work from home per Section C, below.

C. Alternative Work Arrangements During Pandemic

1. Depending upon the extent and severity of a pandemic, the Village may consider addressing employee attendance issues through alternative work arrangements, including flexible work schedules, working

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from home, and social distancing at work so that employees may care for themselves, and their family members with a contagious disease, and still perform their jobs. Such arrangements will be based upon work function, existing circumstances, and will be documented. Please see the Village of Weston policy regarding telecommuting.

**D. Salaries and Benefits of Those Unable to Work During Pandemic**

As of April 1, 2020, up to 80 hours of Emergency Paid Leave (prorated by % FTE) can be made available to eligible employees unable to perform their assigned duties, pursuant to the following provisions and further provided for in Section IV, "ADDENDUM FOR 2020 CORONAVIRUS AND CONTAGIOUS TEMPORARY ILLNESS":

1. Employees who are unable to perform their assigned duties during the COVID-19 pandemic are eligible to use Emergency Paid Leave. This includes, but is not limited to, employees who are unable to perform their assigned duties due to the inability to work remotely (telecommute or telework).
2. In instances where employees are unable to perform their assigned duties due to the type of work they perform (meaning the work cannot be performed remotely) but are assigned other duties that CAN be performed remotely, they cannot refuse a reassignment of duties in order to take Emergency Paid Sick Leave.
3. Employees may use Emergency Paid Leave prior to using any other accrued and unpaid leave categories.
4. Emergency Paid Leave use, including a determination that an employee is unable to perform their assigned duties, is subject to approval by the employee's Department Director, after consultation with the Village Administrator.
5. Use of Emergency Paid Leave is only available to be claimed beginning on Wednesday, April 1, 2020, and shall remain in effect through December 31, 2020.
6. There is no entitlement to Emergency Paid Leave after the dates provided for in subsection III.D.5 above.
7. Emergency Paid Leave does not accrue and may not be rolled over or combined into other types of leave.

**E. School Closures**

The Centers for Disease Control and Prevention (CDC) may not advise school closures as a result of a pandemic illness outbreak; however, individual school districts may still make that decision to protect public health. Employees who cannot provide for daycare of their healthy children during a school closure and must stay home may use PTO or unpaid leave of absence for the day(s) away from work. As an alternative, such employee may be able to work from home, pursuant to Section C, above.

**F. Maintaining Employee Privacy**

The Village will comply with applicable statutes and regulations and make every effort procedurally to protect the privacy of persons who have contagious illness or disease. At the same time, the Village may have the duty to implement certain protective measures, e.g., warn other employees if they have been exposed to a co-worker diagnosed with a contagious illness, and notify local and state health officials of the same.

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G. Travel

1. Work-Related Travel

Travel during a pandemic is another area that is subject to rapid change. Work-related travel outside the country, state, county and city may be restricted. A decision regarding travel restrictions will be made based upon the location, extent and severity of the pandemic balanced with the purpose of the intended travel. Travel essential to the operational needs of the Village where no reasonable alternative is available will be given higher consideration.

Under the 2020 COVID-19 pandemic the following work-related travel restrictions will apply, as of 1 April 2020.

- a. Travel outside of the Village of Weston but within Marathon County is not restricted.
- b. Travel outside Marathon County but within the State of Wisconsin must be submitted for prior review for the Department Director and Administrator to determine whether the planned travel should proceed on behalf of the Village of Weston. Previously approved travel must be re-submitted for evaluation by the employee's Department Director to determine whether the planned work-related travel may proceed.
- c. Travel outside the State of Wisconsin, including outside of the United States, is prohibited

2. Personal Travel

Under the 2020 COVID-19 pandemic the following work-related travel restrictions will apply, as of 1 April 2020.

- a. Employees are directed to communicate in advance their personal travel plans to their Department Director and the Administrator. It is strongly recommended that employees postpone or cancel personal travel outside of Wisconsin. Documented cases are growing rapidly both domestically and internationally. Employees may face a higher risk of infection, significant delays returning to Wisconsin, and/or the requirement to self-isolate upon return, all of which could significantly impact professional and personal obligations at great individual expense.
- b. Employees travelling internationally will not be allowed to return to work to their Village of Weston workplace for not less than fourteen (14) calendar days after their return. This travel restriction will remain in place until further notice as the Village Administrator continues to monitor the efficacy of this measure.
- c. Employees travelling domestically within and outside the state of Wisconsin must follow CDC guidelines for travel within the United States and refer to the CDC for [guidance on how to conduct a risk assessment](#) of their potential exposure. Such employees should review CDC travel updates daily for information on communities with sustained community transmission.

3. In the event the Village President or Board of Trustees issues a state of emergency for the Village of Weston, then employees may expect that their personal vacations and scheduled time off may be cancelled. The Village has always reserved such management right to do so.

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**IV. ADDENDUM FOR 2020 CORONAVIRUS AND CONTAGIOUS TEMPORARY ILLNESS**

**A. Introduction**

1. This Addendum is designed to make the Village of Weston compliant with the “Families First Coronavirus Response Act (FFCRA)” that was approved by the U.S. Congress and signed by the President on March 18, 2020.
2. The Act takes effect on April 1, 2020, and most provisions expire on December 31, 2020.
3. Eligible employees with a qualifying need related to a public health emergency, as described by the FFCRA, may be eligible for the leaves described in the Addendum. Eligible employees must provide the Village with notice of their need for leave under this Policy as soon as reasonably practicable. Notice should be provided either orally, telephonically, or in writing, including an e-mail to the Human Resources Director. Requests for leave should not be conveyed via voicemail unless circumstances prevent other forms of communication. The failure to provide notice of your need for leave may result in an unauthorized absence from work.

**B. Emergency Responders**

Employees who are classified as emergency responders are not eligible for leave or the benefits available under this policy, or the FFCRA pursuant to Section 3105 and Section 5102 of the FFCRA. The Village has classified the following positions as emergency responders for purposes of this policy:

- Village Administrator
- Village Clerk
- All Department Directors
- Building Inspectors
- All Public Works & Utilities field employees and supervisors (this includes Parks)
- Utility Clerk and Assistant Utility Clerk
- Staff providing election services

The nature of the work performed by these employees, the possible need for additional staffing, and the exigent and dire circumstances that may exist when these employees are needed most to respond to an emergency during a pandemic necessitates their availability as emergency responders. The Village Administrator may amend this list of emergency responders at any time.

**C. Emergency Paid Sick Leave**

1. Pursuant to the Families First Coronavirus Response Act (“FFCRA”), on March 18, 2020, President Trump signed into law the Emergency Paid Sick (“EPSLA”). Emergency Paid Sick Leave under the FFCRA is in addition to PTO and MLB provided by the Village of Weston by policy. The Act takes effect on April 1, 2020, with a sunset date of December 31, 2020.

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2. Eligible employees may request to take Emergency Paid Sick Leave if the employee is unable to work (or telework) because of a COVID 19 related reason AND the employee:
  - a. Is subject to federal, state, or local quarantine or isolation,
  - b. Is told by a health care provider to self-quarantine,
  - c. Is having symptoms and seeking a medical diagnosis,
  - d. Is having to care for an individual subject to a federal, state, or local quarantine or isolation,
  - e. Is having to care for a child if the child’s school, place of care, or child care provider is closed because of the public health emergency, or
  - f. Is experiencing a substantially similar condition as specified by the Department of Health and Human Services.

3. Eligible full-time employees may take up to 80 hours of Emergency Paid Sick Leave and part-time employees are eligible to take Emergency Paid Sick Leave based upon the average number of hours they work in a two-week period.
  - a. If the COVID-19 related leave taken by the employee is for their own care, then the employee will be paid at their regular rate of pay.
  - b. If the leave taken by the employee is for the care of a family member, then the employee will be paid at two-thirds of their regular rate of pay.
  - c. In this instance, the employee may use their accrued unused and available paid time off benefits to receive the remaining one-third of their regular rate of pay.
  - d. Certain daily and aggregate total wage caps in pay based upon the reason for the Emergency Paid Sick Leave are provided for in the law. The Village of Weston will comply with these maximum payment caps.
  - e. Emergency Paid Sick Leave may be taken by employees regardless of the length of their Village of Weston employment.
  - f. Emergency Paid Sick Leave may not be carried over from this year to the next. This pay and federal law terminate on December 31, 2020.

**D. Emergency Family and Medical Leave Expansion**

1. Pursuant to the Families First Coronavirus Response Act (“FFCRA”), on March 18, 2020, President Trump signed into law the Emergency Family and Medical Leave Expansion Act (“EFMLEA”). The EFMLEA provides job protected leave for employees who need to care for their son or daughter because their school or daycare is closed due to COVID-19. The Act will take effect on April 1, 2020, with a sunset date of December 31, 2020.
2. The EFMLEA allows employees up to 12-weeks of job protected leave if an employee is unable to work or telework because the employee is needed to care for the employee’s dependent son or daughter (who is under the age of 18) because the child’s school, or childcare facility has been closed, or the childcare provider is unavailable due to the COVID-19 pandemic.
3. The EMFLEA is available for regular full-time and part-time employees who have worked for the Village for at least 30 calendar days prior to taking the leave. Emergency responders as defined in Section IV.B. above are exempt from and, therefore, not eligible and not included with those Village employees provided EMFLEA.

	<b>Title:</b> Contagious Temporary Illness		<b>Policy Number:</b> HR 13-2001	
	<b>Author:</b> Keith Donner, Administrator		<b>Created:</b> 03/31/2020	<b>Revision:</b> New
	<b>Scope:</b> Village wide		<b>Print Date:</b> 4/3/20 1:30 p.m.	

4. If two spouses are employed by the Village and are eligible for leave under the EMFLEA, they are each entitled to separate 12-week periods of EMFLEA leave to care for their child whose school or childcare facility is closed as the result of COVID-19. In order to be eligible for leave under the EMFLEA, the employee must be ***needed*** to care for a child due to school or daycare closing. If and when necessary, the Administrator will decide who is “needed” for purposes of EMFLEA and will do so based upon the particular facts and circumstances of each situation on a case-by-case basis.
  
5. Pay During Leave: The EFMLEA provides for paid time away from work for up to 12 weeks.
  - a. The first two weeks (10 workdays) of EFMLEA leave is unpaid under the federal law; however, employees may, but are not required, to substitute accrued, unused, paid time off benefits during the initial 10-day portion of EMFLEA. This includes the 80 hours of emergency paid leave provided by the EPSLA (IV, C. above). Paid leave provided by the EPSLA can run concurrently with leave provided by the EMFLEA.
  
  - b. Thereafter, for weeks 3 – 12 of EMFLEA, job-protected leave is paid at 2/3 of the employee’s regular rate of pay. Payments are capped at \$200 per day (\$10,000 for the total leave period) for regular full-time employees and are pro-rated at the same amount for regular part-time employees. Employees may, but are not required, to substitute accrued paid time off during the last 10 weeks of EMFLEA.
  
  - c. For full time employees, the paid leave opportunity will be based on the regular rate of pay of the employee for the hours the employee would normally work for a forty-hour work week. Part-time employees pay eligibility will be based on their regular hours worked per week – or if variable – the average hours worked in the preceding six months.
  
6. EMFLEA time off runs concurrently with traditional regular federal and state FMLA. The total EMFLEA and FMLA that an employee may take in 2020 is still twelve (12) weeks.
  
7. All rules, regulations, policies, and requirements for traditional state and federal FMLA remain in full force and effect for 2020, except as otherwise specifically provided in the EMFLEA.
  
8. Intermittent Leave: Under some circumstances, employees may take EMFLEA on an intermittent basis, subject to staffing levels and Department Director and Administrator approval.
  
9. Traditional Family Medical Leave Act Benefits: An employee may be eligible for traditional federal and state FMLA leave if they have a COVID-19 diagnosis and they meet the requirements of the FMLA. An employee who is not ill but merely quarantined because of coming into contact with COVID-19 would not be eligible for EFMLEA or traditional FMLA. Please refer to the Village of Weston FMLA policy for information pertaining to the provisions of the FMLA. It is important to note that while an employee is entitled to 12 weeks of leave under the EFMLEA, the length of the EFMLEA leave is reduced by any FMLA Leave previously taken by the employee during the same year. EFMLEA is not a separate or additional 12-week leave entitlement. In other words, the Emergency Family Leave for childcare purposes is automatically reduced by the amount of EFMLEA and FMLA leave an employee has already taken for all purposes in the current calendar year, without regard to the reason for the previous leave.
  
10. Benefits During Leave: Benefits during leave will be applied as benefits under the FMLA.

	<b>Title:</b> Contagious Temporary Illness		<b>Policy Number:</b> HR 13-2001	
	<b>Author:</b> Keith Donner, Administrator		<b>Created:</b> 03/31/2020	<b>Revision:</b> New
	<b>Scope:</b> Village wide		<b>Print Date:</b> 4/3/20 1:30 p.m.	
<b>Page 8 of 8</b>				

11. Employee Status after Leave: The FMLA’s job protected leave requirements and anti-retaliation provisions also apply to EFMLEA scenarios.
12. Procedure for Requesting Leave and Certification: Employees shall complete the FFCRA form that will be used specifically for the purposes under the FFCRA. Forms can be requested by contacting their Department Director, Human Resources Director, or the Administrator. Employees should be respectful of social distancing recommendations when obtaining their forms. Forms can also be found through the following link: : <https://www.dol.gov/agencies/whd/fmla/forms> along with fact sheets at the following links: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28.pdf>. ; <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave> <https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave>

You may email your completed request form to the Human Resources Director and Administrator.

13. Understanding that schools and day cares are closed, and health care providers are overwhelmed at this time, the required doctor’s certification is not necessary and will be waived through December 31, 2020, unless there is cause to believe the employee has falsified the request.
14. Enforcement: Nothing in this provision shall be construed to in any way to diminish the rights or benefits that an employee is entitled to under any law, collective bargaining agreement, or existing Village of Weston policy. An employee is encouraged to consult with the Human Resources Director and Administrator regarding any questions or concerns.
15. For employees who are classified as emergency responders and exempted from the EFMLEA and EPSLA provisions of the FFCRA and who are eligible for PTO and/or MLB under the Village’s current personnel policies, the Village will provide up to 80 hours of emergency paid leave to be used during the first fourteen calendar days by those emergency responders who are unable to work (or telework) due to the following reasons:
  - a. The employee tests positive for COVID-19
  - b. The employee has been directed by a Department of Health or a designee of a Department of Health to self-quarantine due to exposure to COVID-19
  - c. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

The Village may follow up with an employee requesting such leave to obtain additional information and to advise the employee of other benefits available including FMLA benefits to run concurrently where permitted. The employee may also use his or her own paid leave. Emergency responders may request this leave either orally or in writing, including email to the Administrator. This Emergency Responder Discretionary PTO expires on December 31, 2020.

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- |   |   |
|---|---|
| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
|---|---|

### ▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://dol.gov/agencies/whd)



## Wage and Hour Division

# Families First Coronavirus Response Act: Employee Paid Leave Rights

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (Department) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date through December 31, 2020.

Generally, the Act provides that employees of covered employers are eligible for:

- *Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay* where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- *Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay* because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and
- *Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay* where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

**Covered Employers:** The paid sick leave and expanded family and medical leave provisions of the FFCRA apply to certain public employers, and private employers with fewer than 500 employees.[1] Most employees of the federal government are covered by Title II of the Family and Medical Leave Act, which was not amended by this Act, and are therefore not covered by the expanded family and medical leave provisions of the FFCRA. However, federal employees covered by Title II of the Family and Medical Leave Act are covered by the paid sick leave provision.

Small businesses with fewer than 50 employees may qualify for exemption from the requirement to provide leave due to school closings or child care unavailability if the leave requirements would jeopardize the viability of the business as a going concern.

**Eligible Employees:** *All employees* of covered employers are eligible for two weeks of paid sick time for specified reasons related to COVID-19. *Employees employed for at least 30 days* are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19.[2]

**Notice:** Where leave is foreseeable, an employee should provide notice of leave to the employer as is practicable. After the first workday of paid sick time, an employer may require employees to follow reasonable notice procedures in order to continue receiving paid sick time.

### **Qualifying Reasons for Leave:**

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (**or unable to telework**) due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

### **Duration of Leave:**

**For reasons (1)-(4) and (6):** A full-time employee is eligible for 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.

**For reason (5):** A full-time employee is eligible for up to 12 weeks of leave (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### **Calculation of Pay:<sup>[3]</sup>**

**For leave reasons (1), (2), or (3):** employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).

**For leave reasons (4) or (6):** employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).

**For leave reason (5):** employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period). <sup>[4]</sup>

[1] Certain provisions may not apply to certain employers with fewer than 50 employees. See Department FFCRA regulations (expected April 2020).

[2] Under the Act, special rules apply for Health Care Providers and Emergency Responders.

[3] Paid sick time provided under this Act does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

[4] An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the first two weeks of partial paid leave under this section.

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**Topics**   **For Workers**   **For Employers**   **Resources**   **Interpretive Guidance**  
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## Wage and Hour Division

An agency within the U.S.  
Department of Labor

200 Constitution Ave NW  
Washington, DC 20210  
1-866-4-US-WAGE  
1-866-487-9243

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# REQUEST FOR CONSIDERATION

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<b>Public Mtg/Date:</b>	Board of Trustees, June 01, 2020
<b>Description:</b>	Re-opening Access to the Municipal Center.
<b>From:</b>	Keith Donner, P.E., Administrator
<b>Question:</b>	Approve/Acknowledge Administrator Recommendations for Re-opening Access to the Municipal Center.

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## Background

On May 13, the Wisconsin Supreme Court overturned the SAFER at HOME order issued by the Wisconsin Department of Health Services', Secretary Designee. Rather than rush to re-open the Municipal Center, the topic was discussed at the May 18, 2020 meeting of the Board of Trustees under the Administrator's report. There was a range of sentiment to going back to the pre-SAFER at HOME status of unrestricted access to maintaining the current status. The result of the discussion was taking a more deliberate approach to re-opening access to the Municipal Center facility. In a report to the Village Board of Trustees of May 22, 2020, the Administrator provided initial thoughts/recommendations for re-opening access to the Municipal Center.

A couple of questions have arisen in evaluating access to the facility by the public. An updated version of the May 22, 2020, recommendations is attached.

As bullet points the Administrator and staff are recommending – 1.) the installation of a ticket booth window in the wall between the southeast conference room and the entry vestibule. (This has been ordered, cost approx. \$1,700); 2.) the installation of an intercom in the vestibule for walk-up customers to contact a receptionist and forward the customer to an appropriate staff person. (Equipment was formerly installed at the Public Safety Building).

The preceding items relate to Building and Office Space Changes in the Administrator's recommendations and are made primarily in the interest of restricting public access to the building and staff safety. The difficult to control building access is one of the many shortcomings of this building but, with plans to replace the building in the next few years the Administrator has been reluctant to spend dollars on improvements. The recommended improvements can be made with modest expenditures and installed by staff.

The major operational change we wish to make permanent is the elimination of in-person bill pay. Instead customers would continue to use bill pay methods which do not require interaction with Village staff. This would reduce interruptions of staff during the workday, eliminate handling of cash and checks, and could free up staff capacity to accomplish other tasks. Other recommendations are felt to be the responsibility of the Administrator and staff and do not require Board of Committee action.

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<b>Attached Docs:</b>	Recommendations on Municipal Facility Operation, May 28, 2020
<b>Prior Review:</b>	BOT meeting of May 18, 2020.

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# REQUEST FOR CONSIDERATION

**FISCAL IMPACT:** Vestibule modifications - \$2,500

- 
- Recommendation:**
1. The Administrator recommends re-opening access to the Municipal Center by the public into the vestibule after the ticket window and intercom have been installed and made functional. This could be done as early as June 5 but, would more likely be a week later. Rather than set a date without having all materials in hand, the Administrator requests using these milestones for “re-opening” to the public.
  2. The Administrator recommends no longer accepting bill payments at the Municipal Center

## Recommended Language for Official Action

**I approve the recommendations of the Administrator to re-open access to the Municipal Center by the public into the vestibule after the ticket window and intercom have been installed and made functional and that the Village discontinues accepting bill payments at the Municipal Center**

**OR**

**Something else**

---

**Additional action:** To be determined

As we consider bringing staff back and reinstating access to the facility by the public, the office staff was asked to complete a short survey to assess areas of concern. 15 of 20 respondents indicate satisfaction with precautions being taken for safety. 9 of 12 front-line respondents indicate to continue current efforts. While this is good, we can obviously do better and there are those who have been able to work remotely who feel more needs to be done before returning to the office. I share this sentiment but, also, I believe we will never please 100% of the population.

1. **Staff Reporting Location** – As long as the FFCRA is in place the recommendations are to provide flexible work arrangements to allow staff to continue to work differing hours, shifts, and work remotely when feasible. We have 3 situations which are evident – I) needing to be flexible to help care for children with school and daycare closures; II) family members who have underlying conditions which make them more susceptible to COVID, and III) concerns about workplace safety. It seems the latter is the only one the Village can influence. My intent is to have some of the staff who had been working remotely return June 1 with others to be determined. With changes implemented for building access by the public, intermittent rotating attendance and remote work should not be necessary except in special cases.

**Once workplace safety has been addressed, unless there is a reason to continue flexible work arrangements, staff will be expected to return to the office.** It is my perspective that our communication and workflow is impacted by the remote working arrangements and Zoom meetings vs. in-person contact.

2. **Workplace Safety** – This question could easily go to the philosophical level of the impossibility of zero risk. What we can do is improve practices to meet recommendations of the CDC and others.
  - a. **Additional Cleaning Effort to Mitigate Risk Exposure** - The Village has obtained daily assistance from DCE Schools during this time while schools have not been in session. The District has generously assigned custodial personnel and equipment to sanitize the Municipal Building and the Public Safety Building. The assistance from DCE is inevitably going to end but, my thought is the expectations for cleaning will extend for the future. This will require more cleaning effort and equipment.
    - i. **Jerry's Cleaning** – has been reduced to one day for the past 6 weeks since DCE has been assisting. Jerry's Cleaning has been instructed to return to a 2 day per week schedule and improve cleaning of the restrooms.
    - ii. **K-Tech** – will clean the carpets the weekend of May 30 and perform a thorough cleaning of the restrooms.
    - iii. **DCE** – will continue daily cleaning until either party decides to discontinue.
    - iv. **Cleaning equipment** –
      1. we have ordered a handheld misting device like the one loaned from DCE for elections. The cost of this is under \$500 but, delivery is probably out about 4 weeks or so.
      2. We are debating the order of the larger misting sprayer such as the one used by DCE on their daily cleaning. The cost of this is \$4,000 and delivery is indicated to be a 6 month wait. **(Could be ordered as part of the Routes to Recovery Grant)**

- b. **Personal Protective Equipment –**
  - i. **Hand sanitizer stations-** Scott and Roman are assessing the location and number of hand sanitizer stations in the building (entrances to main office, office areas, etc.) Additional stations may be recommended.
  - ii. **Personal hand sanitizer bottles –** 2 cases of 16 oz. hand sanitizer have been received as of Wednesday. These have been issued to individual employees for their vehicles and office spaces.
  - iii. **Masks –** The recommendation is to use masks when physical distancing is not possible. We will be developing a protocol for distribution of masks. Employees may provide their own masks at this time.
  
- c. **Building and Office Space Changes –**
  - i. **Building Access – My recommendation is to maintain the current status of building access; i.e. restricting access from the public and going to by appointment visits only.** Protocol for visitors having PPE may need to be considered. My reason for this recommendation though is more from the perspective of physical safety which we have been unable to provide until this latest situation with COVID has made limited access the new normal. I believe the residents have become accustomed to utilizing other than walk-in service and in any other business situation, it is necessary for people to make appointments which is what we would ask as well.
  - ii. **Install a ticket window for drop-off of documents (CSM's, plans, UPS envelopes) –** this would be into the airlock vestibule from the adjoining office. We would not propose to attend this for payments.
  - iii. **Eliminate in-person payments of bills –** already being practiced would like to make permanent.
  - iv. **Rearrange clerk staff seating (room assignments?) and/or add plexiglass dividers above cubicle dividers –** still under review, dependent on bill pay and staffing of southeast office, will need further discussion and review
  
- d. **Other**
  - i. **Community food/treat sharing –** It gets to the inhuman level but, by having these types of things available certainly creates opportunity for spread of stuff. Needs more discussion as well.
  - ii. **Maintenance of kitchen –** Kitchen space needs to be maintained to avoid staff eating at their workstations. I

I appreciate the Board's patience as we work toward completing our milestone items.

# REQUEST FOR CONSIDERATION

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<b>Public Mtg/Date:</b>	Human Resources Committee, June 1, 2020
<b>Description:</b>	Social Media Policy
<b>From:</b>	Keith Donner, P.E., Administrator
<b>Question:</b>	Discussion on a social media policy for Village employees.

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## Background

The Village's social media policy right now is a very short 2 paragraphs in Section 10.16 of the Employee Personnel Policy and Procedures Handbook. The Administrator and staff recognize additional direction is needed as to how staff uses social media to communicate with constituents. The Village uses social media platforms like Facebook, Next Door, and others as well as its website and e-mail to interact with constituents. Prior administrations have been intent on monitoring traffic on these sites. The Administrator wishes to reset expectations for the Village's use of social media and limit replying to comments to an official site.

In reviewing sample social media policies or related policies, it seems there are a handful or so of main points we would want to address first.

1. The distinction between an employee's Village vs. personal social media account
2. The need for employees to be clear they are expressing their own opinions and not those of the Board of Trustees or the Village when/if interacting with constituents on personal social media.
3. The need (or ability) to declare whether we have an official social media site for notifying the Village of issues or hazards and clearly state that is where we would reply to complaints/reports from constituents. I noted there was some reference in a guidance document that if we receive notices from constituents on a social media site about unsafe conditions and it is ignored, it is possible we could be found negligent if someone is injured. I need to discuss this more with attorney Yde.

In terms of an overall policy for the Village, I think our use of social media should be to push out information but, not to be a forum for discussion or debate except on a single official platform – Village e-mail accessed through website I would think. I do not want people going down every rabbit hole to engage with every individual's opinions, we don't have the time to do this and accomplish what our Board and constituents expect.

I am sure there is more to consider.

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<b>Attached Docs:</b>	Section 10.6 "Social Media Policy" from Employee Handbook. Guidance from National League of Cities on Government Social Media Policies Guidance from Association of Washington Cities on Use of Social Media
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# REQUEST FOR CONSIDERATION

**Prior Review:** Staff, Village Legal Counsel

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**FISCAL IMPACT:** TBD

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**Recommendation:** TBD

**Recommended Language for Official Action**

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**Additional action:** To be determined

- (b) All complaints shall be thoroughly investigated. Employees are expected to cooperate with the investigation and provide truthful information. A formal report which summarizes findings may be prepared. A copy of the investigation report may be provided to the complainant and a copy shall be kept on file.
  - (c) Confidentiality shall be maintained during the investigation to the fullest extent possible.
  - (d) An employee found in violation of this policy shall be subject to disciplinary action up to and including termination.
  - (e) An employee who is found to have knowingly made a false accusation of sexual harassment will be subject to disciplinary action up to and including termination.
- (6) Retaliation and/or Reprisal: An employee who engages in or assists in retaliation and/or reprisal against an employee who files a complaint or against anyone assisting in the investigation will be subject to disciplinary action up to and including termination.
- (7) Education and Questions: All employees shall have the opportunity to attend an educational program on sexual harassment and this policy. Regular employees, Trustees, and managers are required to attend one of these sessions. These educational sessions shall be coordinated by the Employee Resources Manager.

**Sec. 10.14. Supervisor-Employee Relationships.**

Department Directors are prohibited from having romantic and/or sexual relationships with employees under their supervision. Perceived violations of this policy shall be brought to the attention of the Administrator. Department Directors found to have violated this policy shall be subject to disciplinary action, up to and including termination.

**Sec. 10.15. Supplementary Employment.**

Employees are allowed to hold a supplementary job as long as it does not interfere with their job responsibilities in their Village employment. Employees in an allocated position shall notify their Department Director in writing prior to engaging in full or part-time employment with another employer or a personal business enterprise. The Department Director may refuse to authorize supplementary employment if it is expected to interfere with the performance of the employee's regular job duties or if the supplementary employment presents a conflict of interest. Questions should be directed to the Employee Resources Manager.

Employees are not allowed to conduct business related to outside employment while on Village paid time, nor is an employee permitted to use Village equipment or supplies in the performance of outside employment duties unless prior approval from supervisor.

**Sec. 10.16. Social Media Policy.**

Use of social networking sites shall be limited to business uses only and must be explicitly approved by the Department Director and consistent with the Village's policies. All posting to such site(s) are to be consistent with the Village's business objectives and existing policies. This includes, but is not limited to: political statements, cursing or other foul language and statements viewed as harassing other based on race, creed, color, age, sex, physical handicap or sexual inclination.

Employees have the right to participate in social media using personal equipment on their own time. The Village recognizes its employee's right to concerted activity, however, employees are expected to never post or create anything that would be potentially embarrassing to Village or considered offensive in the community. It should be clear that views expressed are not necessarily those of Village.

#### **Sec. 10.17. Technology Use Policy.**

The Village provides a variety of information technology resources for employees and customers in an effort to allow them to be more productive and have the information necessary to do their jobs. The use of these resources is intended for Village and customer's business purposes only.

- (1) Business Purpose: All information technology (IT) resources including servers, storage devices, PCs, laptops, cell phones, smart phones, PDAs, networking equipment, networking circuits and capacity, telephone systems, e-mail, messaging systems, video systems and Internet access owned, rented or leased by Village are business tools to be used in accordance with our mission of public service. Except as prohibited by this or another more restrictive department policy and with management approval, limited and reasonable use of these tools for occasional employee personal purposes is permitted as long as it does not result in any additional cost or interfere with work productivity and follows all guidelines in this policy. Personal use must be done during the employee's unpaid time off.
- (2) Employee Responsibility: Employees are responsible for appropriate use of information technology resources in accordance with this policy or more restrictive department policy. In addition to complying with all laws and policies, employees are expected to adhere to the highest ethical standards when conducting business.
- (3) Department Director Responsibility: Department Directors are responsible for ensuring the appropriate use of information technology resources through training, supervising, and, when necessary, taking disciplinary action.
- (4) Appropriate Use: The use of and access to Village-owned information technology resources is limited to employees and officers of the Village assigned access to said resources. It is intended for official purposes associated with the performance of governmental or agency functions in the name of and on behalf of the Village. Consequently, all data and information shall be and shall remain the property of the Village and shall not belong to the individual employee or officer. The use of information technology resources for limited personal use is a privilege which may be revoked at any time by management if its use is deemed inappropriate. The Village will monitor the use of information technology resources.
- (5) Inappropriate Use: Inappropriate use of information technology resources, including inappropriate personal use, may result in revocation of privileges, job-related discipline up to and including termination of employment. Uses that are prohibited include, but are not limited to:
  - ✓ Accessing resources or altering data without explicit management authorization.
  - ✓ Intentionally deleting or damaging data.
  - ✓ Copying, sending and removing information that is confidential or is not an open record to unauthorized users outside of the office or network.
  - ✓ Intentionally introducing a computer virus.

## **Building Local Government Social Media Policies**

Social media is a new world of opportunity for local governments to communicate with citizens and receive feedback. Its risks are similar in nature to those of other types of communication, but with a different twist because material circulates so widely and there are many potential contributors. One recommended tool for addressing these risks is to adopt a social media policy. But what should be in that policy? It is not an easy question to answer.

Many local government social media policies are posted online, but this is an area where one size definitely does not fit all. Social media policies do not stand in isolation. They usually incorporate related policies by reference, and policies that address other issues are often amended to include social media specific provisions. Thus, social media policies are often a web of interrelated policies. Each government must take an individual approach to ensure that all these diverse parts come together to meet its unique needs.

Pools have a strong interest in their members' management of social media risks. They can help their members develop a social media policy by providing suggestions about what a social media policy should do. To assist RISC member pools in this outreach, NLC-RISC has prepared these recommendations about the building blocks for a social media policy. This resource can be used by the pool as a starting point for preparing its own guidelines or can be distributed to pool members under its name.

### **Control and structure of the government's official social media**

Failure to control when and how social media sites are being created and used on behalf of the government sets the stage for losses. The first task for a social media policy is to establish the control structure for the government's official social media program. Three major issues are who has the authority to:

- Establish and terminate official social media accounts.
- Develop and implement the government's social media strategy.
- Develop and enforce a social media policy.

Some governments centralize control over their official social media presence. Centralized programs restrict who can establish an account and require prior review by an identified authority for all posts or comments on behalf of the government. Centralized control has an advantage from the risk control

perspective. It establishes authority and accountability and reduces the chances of a deviation from policy that results in liability.

Other governments decentralize control over their official social media presence to accommodate their operations' different goals and objectives. For example, emergency management may want to tweet alerts and recreation may want to post its activities on a Facebook page. A government might give those operations significant control over their social media presence so they can more nimbly accomplish their goals.

Not all decentralization is the same. The most decentralized approach is a policy that gives some guidelines about acceptable and prohibited use but otherwise allows agencies the freedom to establish social media accounts and pursue their own strategies. A more conservative approach would be a policy that decentralizes day-to-day control subject to general guidelines, but requires prior approval to establish a social media site and designates someone to monitor all the government's social media resources and order necessary changes. For risk control purposes, the more conservative approach offers the advantage of consistent oversight to ensure compliance with policy, combined with a degree of freedom to allow operations to take full advantage of the real-time nature of social media.

Small governments that plan relatively limited use of social media – for example a single Facebook page for the city – will probably use centralized control. Larger governments are likely to have a more decentralized social media program. Both will benefit from a social media policy that outlines the government's official position on social media, identifies who is authorized to participate in the government's official social media sites, and guides them on its implementation. Most of the approaches outlined below are consistent with either a centralized or decentralized approach.

### **Public records**

One of the most difficult issues in local government use of social media is how to comply with the state's public records laws. Some social media posts are akin to casual conversation, but others pertain to official government business. Even comments posted by members of the public may qualify as public records, including those that have been removed as violating the public comment policy. How to draw the line between social media content that does and does not qualify as public records, identify the content that must be retained, and develop an archiving system are all issues of concern to governments using social media.

Many social media policies simply require compliance with the local government's existing public records policy. Three specific social media policy

provisions that an government can consider to facilitate compliance with public records laws are:

- Post all original content to the government's website and use the social media site as a secondary outlet.
- Link back to the official government website for additional information.
- Require employees who post public records to a social media site to ensure that the original document is retained in a manner that complies public record policy.

### **Guidelines for employee use of the government's official social media**

Guidelines for employee use of the government's official social media are a critical part of a social media policy. Even if only one employee posts and responds to comments, that employee must know what is expected and the government must have some way of holding the employee accountable.

The guidelines for use derive from what can go wrong in a social media environment. Some of the major concerns are the following:

- Bad information that misleads the public and causes harm
- Violation of intellectual property rights
- Disclosure of private or confidential information
- Harassment
- Defamation

Any of these can lead to claims and lawsuits. The goal of guidelines is to prevent adverse outcomes.

Guidelines for employee use of the government's official social media encourage some conduct and prohibit other conduct. Some examples of useful positive requirements include:

- Be honest and transparent.
- Post only within one's area of expertise.
- Post only useful information.
- Keep it professional - avoid confrontation.
- Be accurate.
- Correct errors, and if modifying an earlier post, identify the change.
- Be responsive to citizen concerns.
- Adopt a user name that follows a standard format and clearly identifies the user as a city employee.

Employees should be prohibited from posting:

- Information about actual or potential claims and litigation involving the government.
- The intellectual property of others, without written permission.

- Photographs of employees or members of the public, without written permission.
- Defamatory material.
- Any personal, sensitive or confidential information about anyone.
- Obscene, pornographic or other offensive/illegal materials or links.
- Racist, sexist, and other disparaging language about a group of people.
- Sexual comments about, or directed to, anyone.
- Political campaign materials or comments.
- Threatening or harassing comments.
- Other information that is not public in nature.

The policy should also address the sanctions that will be imposed for breach of the policy. Be consistent with, or simply incorporate by reference, the employee discipline policy.

Many of these issues may already be addressed in other policies that can be incorporated by reference or used as a resource. In particular, any code of conduct or ethics should be incorporated by reference. Be consistent with or incorporate by reference website, information technology, communication, media relations, public information and privacy and confidentiality policies should also be considered.

### **Guidelines for employee use of other social media**

Many employees already have purely personal social media accounts they use to interact with friends and family. They also may participate in “professional” social media that are related to their work or profession, but are not their employer’s official site and usually are not a part of their job. An example of professional social media is GovLoop, a social networking site for government workers. Another example is LinkedIn. An employee also might establish a page on what is traditionally a personal social media site, such as a Facebook, for purposes of networking with professional colleagues.

Active participants in professional social networks can gain useful information that will help them do their jobs better, but they may also be more likely to discuss the details of their job on those sites. Their identification with a specific employer means that their posts can easily reflect upon the employer.

Personal and professional social media sites pose risks to the government even if employees access them when they are off-duty and using their own personal devices. Major risks include:

- Disclosure of private or confidential information
- Posting photographs of fellow employees or citizens without their permission

- Harassment
- Retaliation
- Defamation

Looking first at purely personal social media, the entity has little control over employees' actions in their free time using their own personal social media accounts and their own devices. Despite this lack of control, the exposures for the government are very real. Employees sometimes use their personal social media to discuss their jobs and post work-related photographs or information that expose the government to liability or compromise its confidential information. Many interact with co-workers, even with their supervisors/subordinates, and real or perceived slights, harassment, retaliation or discrimination can follow them into the workplace.

Many employees also use personal social media during work hours, either through the government's or the employee's personal technology, such as a smart phone. Personal use of social media through government technology has all the same risks identified above, as well as:

- Reduced work performance
- Downloading to government servers and distributing the same inappropriate content that may be accessed through the Internet.
- Inappropriate use of government property for political, commercial or criminal activity.

A government can prohibit social media at work and adopt blocking and/or monitoring programs for its own technology equipment. These techniques likely will not eliminate the use of personal social media at work, as many employees now have access to social media through their smart phones. However, they will help keep inappropriate content off government servers.

Monitoring employee use of social media and disciplining employees for violating a no-use policy have their own risks. Employees may claim that monitoring invades their privacy and constitutes an unreasonable search. Whether or not the government routinely monitors employees, notify employees in writing that they have no expectation of privacy in their use of government technology. Include the notice in the government's technology policy. If the government needs to access the employee's computer, the notice provides a defense. Also avoid taking job action against an employee based solely on monitoring results. Other factors, such as performance, should be considered.

Professional media sites pose many of the same risks as purely personal sites. They are also more likely to be accessed during work time using the government's technology, often with the government's explicit approval or encouragement. Because professional social media specifically relates to

professional interests, the employee is more likely to be identified with the government and discuss its business than on a purely personal social media site. Disclosing confidential information, casting the government in an unfavorable light, and misrepresenting the government's position are all risks.

To address these risks, consider including in the social media policy:

- A requirement that employees include in any post related to the government or their job on a personal or professional site a disclaimer that the posting reflects their own opinion, and not that of the government.
- By reference, policies that relate to conduct and ethics, privacy and confidentiality, harassment, retaliation and other relevant conduct.
- If monitoring employee use of social media at work, written notice of the nature and scope of monitoring.
- Notice that employees have no reasonable expectation of privacy when using government technology.
- If access of personal social media through government technology is permitted, notice that employee use of personal social media at work must be brief, not interfere with performance of the employee's duties or with the workplace, and not involve commercial, political or other prohibited activities.

### **Guidelines for elected official use of social media**

Elected officials' use of the government's official social media or their personal or professional social media can raise many of the same risks just discussed with regard to employees. Elected officials who use the city's official social media should be subject to the same requirements as employees. (For open meetings purposes, discussed below, they may not want to use the official social media.) Many local governments have codes of ethics for elected officials, sometimes combined with the code for employees, which can be adopted by reference into the social media policy.

A risk that is different for elected officials is possible violation of the state's open meetings laws through the use of social media. A quorum of lawmakers holding a discussion about public business through social media may constitute a meeting that is subject to the open meetings law. This could happen through the official government social media, and some governments consequently prohibit elected officials from participating in their official social media. Equally problematic is elected officials' use of their own social media to communicate in their official capacity with members of the public. Informal communication with constituents is generally acceptable, but discussion of public business is risky, especially if it involves other elected officials. The dynamic nature of social media and the sheer volume of posts may make it difficult to track who is involved in the discussion and detect when the open meetings line has been crossed.

Another potential risk associated with elected official use of social media is use of government resources for political purposes. Elected officials are increasingly using social media for campaign purposes. Elected officials who use the same social media for communicating with constituents as they do to campaign risk violating the law against using government resources for political purposes.

To address these risks, consider including in the social media policy:

- Recognition that elected official use of social media to discuss public business may violate the open meetings law.
- A prohibition against elected officials using any social media (personal, professional or the government's official social media) to discuss public business.
- A requirement that a social media site used by an elected official to communicate with constituents include a link back to the city's official website for detailed information.
- A requirement that elected officials who use social media for campaigning establish separate social media for that purpose and not access that social media through government technology.

### **Public comment on the government's official social media**

Some governments use their social media as a one-way communication tool to flow information to members of the public. Those governments disable comment features on their social media. Others view social media as an opportunity to receive information and feedback from the public and enhance operations. For example, members of the public might be encouraged to post a report of potholes, rather than calling.

The benefits of public comments have accompanying risks. A member of the public may post content that is inappropriate by being off-topic, defamatory, harassing, obscene or pornographic, criminal, or commercial. Or a citizen may just post an opinion that is critical about some aspect of the local government.

The risks of permitting public comments include:

- Failure to act on information reported by a member of the public resulting in harm to someone. If a member of the public posts a comment about a dangerous condition on public property, the government has notice. If it does not take action to address the dangerous condition and someone is injured or killed, a lawsuit may result.
- Although it would seem obvious that posts to social media are not private, members of the public who post may be disturbed if their comments are disclosed as public records under the state's open records law.

Other significant risks associated with public comment arise from what the government does (or does not do) to manage it. These include:

- Failing to monitor and remove inappropriate comment.
- Government employees responding inappropriately (in a harassing manner) to public comments.
- Violating the free speech rights of members of the public by removing comment based on the viewpoint or opinion expressed.

To address these risks, consider including in the social media policy:

- A public comment policy for posting on the social media site that does the following:
  - Identifies viewpoint neutral criteria that will be used to determine when a comment or link posted by a member of the public will be removed, which can include comments that are off-topic, obscene or pornographic, defamatory, harassing, commercial, criminal, political, or that violate the intellectual property rights of others.
  - Reserves the right to remove posts that violate the policy.
  - Gives notice that the comments are monitored only during business hours, and thus information conveyed after hours will not be received until the next business day.
  - Gives notice that comments are subject to disclosure as public records.
- Procedures and responsibility for monitoring of public comments and removal of inappropriate comments in accordance with the public comment policy.
- Procedures and responsibility for monitoring, responding to, and taking timely action to act upon information conveyed via public comments.

## **Conclusion**

There are risks to undertaking any new activity, but social media is a powerful tool for local governments looking for new and cost-effective ways to engage their citizens. Just be sure to adopt social media with due consideration and planning. This means having clear objectives, knowing the target audience, selecting the right social media for the task, and taking the time to develop the right policy. Social media evolves quickly, so it is a good practice for the social media policy to remain platform neutral, and to review and revise it frequently to meet the changing environment.



## Guidelines for elected and appointed officials using social media

Social media is a tool growing in popularity for developing direct communications with your community and creating informal opportunities to reach out beyond official publications. City policies should cover the “official” city account, employee use of social media inside and outside of work, and elected official use of social media.

The extent to which a jurisdiction or individual uses social media varies. Before engaging you should assess your risk tolerance and make sure certain laws – such as the Public Records Act and Open Public Meetings Act – are followed.

### A few clarifying definitions...

Social media can include websites and applications that enable users to create and share content or to participate in social networking.

A social platform is a web-based technology that enables the development, deployment and management of social media solutions and services.

A third-party system is any system maintained by another entity. This could include Twitter, Facebook, Wordpress, Google, phone carriers, and more.

### Know when social media is a public record

A recent court decision (*Nissen v. Pierce County*) case outlined a test for when a document on a third-party system is created within the “scope of employment” and is a public record. Scope of employment may include elected officials acting within their capacity as a mayor or councilmember. This includes when an employee or elected official is:

- Required by the job duties *or*
- Directed by the employer *or*
- In furtherance of the employer’s interests

Retention of documents, including social media, is based on the content and not the platform. City policy should consider retention and adopt a process outlining responsibilities.

### Make a clear distinction between official accounts, campaign accounts, and personal accounts

One way elected officials and staff can clearly distinguish private social media accounts is by adding disclaimers on election and personal accounts, and not using the account for city business. *City-sponsored accounts may not be used for campaign-related purposes.*

To keep a personal account from becoming subject to public records, consider some basic precautions.

#### Do:

- Post a disclaimer on your personal account that identifies the account purpose and that the opinions you express are your own.
- Limit the account content to personal use.
- Understand and use privacy settings to manage the account.
- Have a plan in place to respond to or forward city-related comments to the city, including how the record is retained.

#### Don’t:

- Don’t write posts on personal accounts that would fit within the scope of employment.
- Don’t discuss your private accounts in public meetings or documents.
- Don’t link to your private accounts from an official city account.
- Don’t use city devices to maintain your private account.

### First amendment and employment rights

City policies should strike an appropriate balance between privacy, liability, and public records concerns. Employees have first amendment and employment rights that need to be balanced against impacts to the image and liability of the city. City policies should provide clear guidance on use of official accounts and advice for keeping clear distinctions between official and personal accounts. (See precautions noted above.)

## **Develop and follow your city policy**

City council policies should address situations that apply to council members and their unique needs. Specifically, council policies should address open public meetings implications, the intersection with campaign rules, impacts on council decision processes, and public records and retention issues.

- Evaluate how the elected official and city will respond if an elected official's personal account receives a complaint or public records request.
- Establish a process to follow if an elected official receives a city-related question or comment on their personal account. Outline how the question or comment will be addressed, and how the record will be retained.
- Limit "friending" or "liking" by elected officials or board members subject to the Open Public Meetings Act. While court guidance is evolving, elected officials need to avoid inadvertent serial meetings that would violate the notice and public meeting requirements. Courts have found those to occur when a chain of conversations involving "action" by a quorum of the council occurs. Passive receipt of information is generally not considered to be action.
- Council may consider adopting rules that outline usage and etiquette, including use both inside and outside of meetings.

Establish procedures for approval of official city social media use that considers retention when the accounts are created.

- Establish an approval process before a city account is created.
- Define who is allowed to post.
- Outline processes related to disclosure of passwords, regular password changes, and security.
- Know how access will be provided if requested as part of a public records request.
- Research your third-party vendor's retention policy and consider investing in retention software.
- Consider limiting posts to "secondary copies" of documents that are already available on a platform that is more easily retained, such as the website.
- Consider non-city accounts or websites your city may or may not link to. Some cities avoid linking to accounts or websites they do not control.
- Address when and how accounts could be subject to search for public records, and require employees to cooperate in searches and providing affidavits.
- Prohibit activities that would be prohibited in other contexts such as: use of public resources for campaign activities; defamatory, discriminatory, or obscene language; violations of intellectual property rights; disclosure of confidential or HIPAA protected healthcare information.

## **For more information**

MRSC information and sample policies: [mrsc.org/Home/Explore-Topics/Management/Information-Technology/Social-Media.aspx#Wash](http://mrsc.org/Home/Explore-Topics/Management/Information-Technology/Social-Media.aspx#Wash)

State Archives: [www.sos.wa.gov/\\_assets/archives/RecordsManagement/Blogs-Twitter-and-Managing-Public-Records-Nov-2013.PDF](http://www.sos.wa.gov/_assets/archives/RecordsManagement/Blogs-Twitter-and-Managing-Public-Records-Nov-2013.PDF)

# REQUEST FOR CONSIDERATION

**Public Mtg/Date:** Human Resources Committee, June 1, 2020

**Description:** Aquatic Center Season Planning

**From:** Keith Donner, P.E., Administrator  
Shawn Osterbrink, Director of Parks, Recreation & Forestry

**Question:** Status of Aquatic Center Management and Opening

## Background

At the February 24 meeting of the Human Resources Committee, options for the management of the Village's Aquatic Center were being evaluated following the resignation of the Village's employee manager. The HR Committee has not held a meeting since then due to the COVID-19 situation which has resulted in many activities being shut-down. The Village had determined to partner with the YMCA for management of the aquatic center on a 3-year contract. However, opening of the facility for the 2020 season has become uncertain. The Board of Trustees will be discussing this at their regular meeting of June 1. The attached draft contract with the YMCA and the draft operational plan are parts of what are necessary to be finalized before opening.

**Attached Docs:** Draft Agreement between the YMCA and Village of Weston for Aquatic Center Management.  
Draft Operational Plan for the Weston Aquatic Center

**Prior Review:** Staff, Village Legal Counsel, YMCA, Marathon County Health Department

**FISCAL IMPACT:** TBD

**Recommendation:** TBD

## Recommended Language for Official Action

**Additional action:** To be determined

## WESTON AQUATICS CENTER-WOODSON YMCA POOL COLLABORATION AGREEMENT

Agreement made by and between the Village of Weston, with its principal offices, located at 5500 Schofield Avenue, Weston, WI. 54476 (“Weston”), and the Woodson YMCA, a non-profit organization with its principal offices located at 707 N Third Street, Wausau, WI 54403 (“the YMCA”), as follows:

**WHEREAS**, the parties have a continuing interest in making available outdoor aquatics opportunities for the surrounding communities.

**WHEREAS**, Weston will provide recreation facilities, the outdoor pool and amenities.

**WHEREAS**, the YMCA can provide staff, management, and activities for the Aquatics Programs for the surrounding communities;

**WHEREAS**, the parties hereto desire to collaborate for the future, on provision of outdoor aquatics opportunities.

**NOW, THEREFORE**, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

- 1. Scope of Services**-The YMCA will manage the Weston Aquatic Center in accordance with the scope of services attached hereto as Exhibit A. The YMCA is responsible for completing Facility Safety Checks of the Weston Aquatic Center before opening the premises to the public or any private parties and continue to monitor and maintain the premises throughout the course of each day so that it is safe for its employees and patrons. Weston is not responsible for inspecting the premises or maintaining the premises while the Weston Aquatic Center is open to the public or being used by private parties under the supervision of the YMCA. The YMCA shall notify Weston of any defects in the recreation equipment, the pool, and the building so that those defects can be repaired/replaced by Weston.
- 2. Term**-The initial term of this agreement shall begin April 1, 2020 and end on March 31, 2023. Thereafter, the term of this agreement shall automatically renew on the same terms and conditions for successive one-year terms. Either party may terminate this agreement by giving the other party written notice of termination at least six months before the end of the current term.
- 3. Staffing**-The YMCA shall provide management, appropriate certified staff, programming and activities for the recreation program. All staff related to the Programs for the outdoor pool will be YMCA employees and abide by the YMCA Employee Handbook. All programming shall be established and maintained for the benefit of the residents. Weston and the YMCA must discuss any programming changes. Weston will receive all program income and provide the registration software/system.
- 4. Fees**- Weston shall pay the YMCA a \$30,000/year administration fee to manage the Weston Aquatic Center. This fee will be paid in three (3) equal installments with payments due on June 1, July 1, and August 1. The administrative fee will increase

annually by two percent (2%) following the first term. In year one Weston will provide the YMCA with an additional \$5,000 in August's payment to cover the extra administrative labor needed for start-up. **If the season is cut short due to any reason fee will be reduced based on the amount of days closed.** Weston is responsible for reimbursing staffing wages of all Weston Aquatic Center employees except managers. The YMCA shall submit an itemized invoice with all staffing wages, and Weston will reimburse the YMCA within 30 days of receipt of said detailed invoice. Weston is responsible for soliciting advertisements for programs, and supplying telephone and internet service, and any other supplies, equipment, or services necessary to operate the Weston Aquatic Center. The YMCA is not responsible for any expenses incurred by Weston.

5. **Facilities Available**-The Weston Aquatic Center will be available for the community during the months of June, July, and August, consistent with the scope of services attached hereto as Exhibit A.
6. **Entire Agreement**-This document contains the entire agreement of the parties and supersedes any other prior written or oral agreement of the parties.
7. **Amendment**-This agreement shall be amended only by a mutual agreement of the parties, set forth in writing, and attached to this agreement.
8. **Assignment**-The parties acknowledge that the management services contracted herein are unique. Accordingly, neither party may assign their rights or delegate the duties or obligations under this Agreement.
9. **Point of Contact**-Weston and the YMCA will both appoint one person as the point of contact to support and facilitate the orderly and efficient performance of this Agreement.
10. **Binding Effect; Choice of Law**-This agreement shall bind the parties, as well as their respective successors and assigns. This agreement shall be governed by and be construed and interpreted in accordance with the laws of the State of Wisconsin.
11. **Indemnification and Insurance**-The YMCA agrees to indemnify and hold Weston harmless against all losses, claims, or liabilities for personal injury or property damage arising out of any act or omission of the YMCA, its employees, agents, and representatives, in the performance of this Agreement. The YMCA shall maintain general liability insurance, including contract liability coverage, with limits not less than one million dollars per occurrence, and shall name Weston as an additional insured, and shall provide Weston with a certificate of insurance confirming such coverage. Weston agrees to indemnify and hold harmless the Woodson YMCA against all losses, claims, or liabilities for personal injury or property damage arising out of any act or omission of Weston, its employees, agents, and representatives, in the performance of this Agreement. Weston shall maintain general liability insurance, including contract liability coverage, with limits not less than one million dollars per occurrence, and shall name the YMCA as an additional insured, and shall provide the YMCA with a certificate of insurance confirming such coverage.

12. **Cumulative Remedies**-No remedy or election hereunder shall be deemed exclusive, but shall, whenever legally permissible, be available with all other remedies at law or in equity.
13. **Immunity**-Nothing contained in this Agreement constitutes a waiver of Weston's sovereign immunity under applicable law.

**The Village of Weston**

Dated: \_\_\_\_\_

\_\_\_\_\_

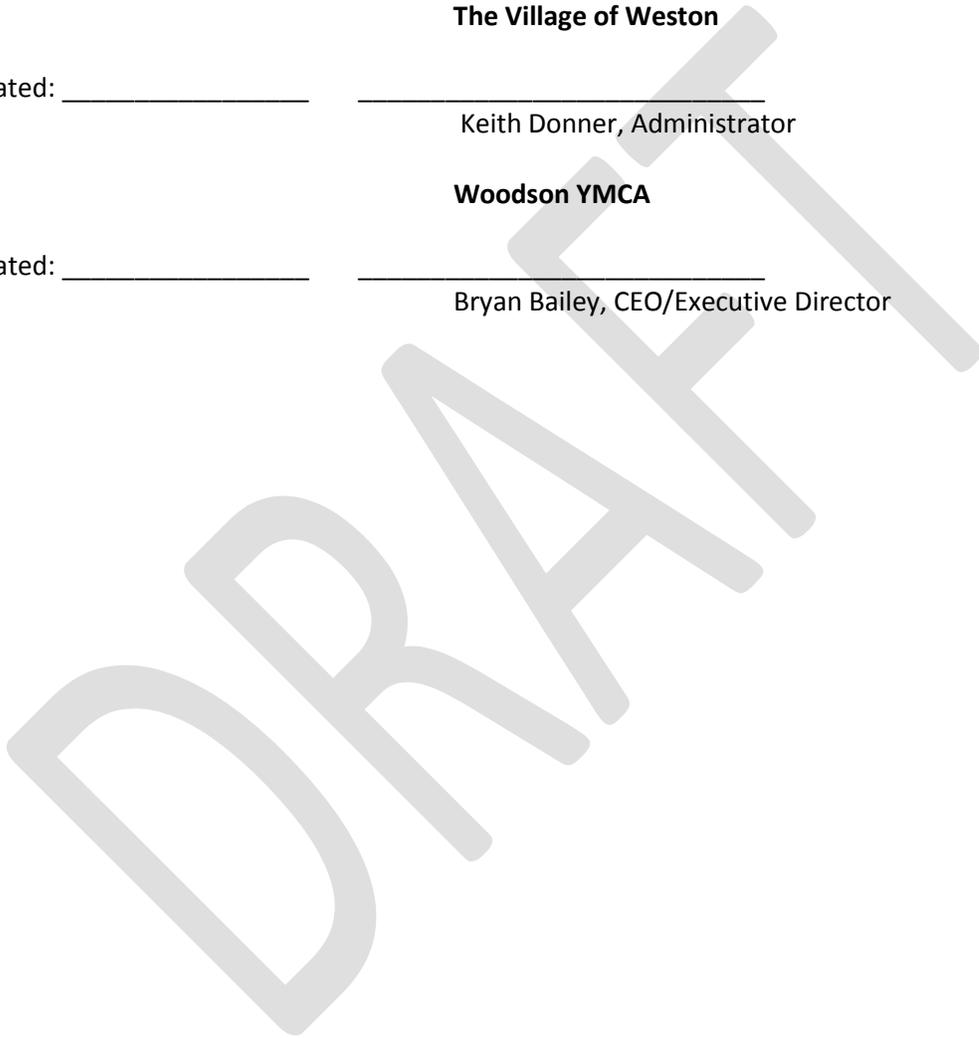
Keith Donner, Administrator

**Woodson YMCA**

Dated: \_\_\_\_\_

\_\_\_\_\_

Bryan Bailey, CEO/Executive Director



## Exhibit A - Scope of Services for Weston Aquatic Center

Below is a general description of the services. This outline is not meant to be all-inclusive. Any and all tasks and services required to operate the facility successfully day to day need to be completed.

1. Preseason:
  - a. Recruitment and Hiring
    - i. NeoGov program and YMCA accepting applications. (Weston-YMCA) 2020, Will discuss for 2021 and 2022.
    - ii. Respond to applicants as applications are submitted. (YMCA)
    - iii. Announcement on social media outlets/advertising available positions. (Weston -YMCA)
    - iv. Recruitment. (Weston-YMCA)
    - v. Share applicant information with YMCA (Completed-Weston, 2020)
    - vi. Interview and hire applicants (YMCA)
  - b. Re-certification, certification and training of staff (YMCA)
  - c. Outfitting staff with uniforms/suits.) YMCA will secure suits for Weston Aquatic Center Staff and Weston will reimburse. (Weston-YMCA)
  - d. Payroll/time keeping (YMCA)
  - e. Scheduling of staff (YMCA)
  - f. Training
    - i. Coordinate joint training with local EMS and police (YMCA)
    - ii. Bloodborne Pathogen training (YMCA)
    - iii. Pre-season and in-season training (YMCA)
    - iv. Training of all staff for facility operations including head guards, lifeguards and front desk/slide attendants. (Weston-YMCA)
  - g. Prepare documentation necessary for Health Department Inspection (Lifeguard Staffing Plan, Virginia Graeme Baker documentation, SDS, etc.) (Weston-YMCA)
2. In-season:
  - a. Day to day operations and staff management (YMCA)
    - i. Coverage for all open hours of facility (11:00 a.m. to 8:00 p.m. Monday through Saturday and 1:00 p.m. to 8:00 p.m. on Sundays), pre-season rentals, special events, private rentals and training between May 30<sup>th</sup> and August 23<sup>rd</sup>, 2020. Dates for 2021 and 2022 to be determined. (YMCA)
    - ii. Comply with all ATCP 76 requirements for documentation including (maintaining daily logbook, fecal accident reports, monthly report on swimming pool operation, death, injury, illness reports, etc.). (YMCA)
    - iii. Opening/Closing (Includes weather related, fecal accidents, minimum patron counts, etc. closings) Inform groups that are scheduled and concession operators. (YMCA)
    - iv. Rule/Policy Enforcement (YMCA)
    - v. Water testing 2 times daily. (YMCA) Problems and treatment issues relayed to Weston.

- vi. Daily cash handling, credit cards, pass sales, deposits (YMCA) Weston will provide processes for these items.
  - vii. Secondary Responsibilities of facility to be completed by guard staff (YMCA) Items beyond regular maintenance to be completed by Weston
  - viii. Work with Rothschild/Schofield Aquatic Center regarding joint passes (Weston-YMCA)
  - ix. Monthly report for village committee's and board (Weston-YMCA).
  - b. Software programs and training (Weston-YMCA)
    - i. Book King – Season Pass Sales, Swim Lesson Registration and Point of Sale
    - ii. Digital Advertising
    - iii. Building Alarm and Camera System
  - c. Swim Lessons
    - i. Manage enrollment and rosters (Weston-YMCA)
    - ii. Manage swim instructors (YMCA)
    - iii. Scheduling of swim instructors and guard staff (YMCA)
  - d. Staff special events (YMCA)
    - i. Water Safety Day
    - ii. Teen Night
    - iii. Private rentals
  - e. Coordinate and schedule groups (Weston-YMCA)
    - i. Pepsi Live Remote
    - ii. Various user groups
    - iii. Birthday parties
    - iv. Private rentals
    - v. Concession operators for rentals, birthday parties, etc.
  - f. Purchasing of necessary supplies for daily operation including lifeguard suits/whistles/pocket masks. (Weston) Assistance from (YMCA) on current inventory. Weston will be responsible for expenses. Exceptions of cleaning supplies, paper products and chemical orders. Weston will take care of these items exclusively.
3. Post season:
- a. Season end report for Park Committee and Village Board (Weston-YMCA)
  - b. Inventory of needed equipment and supplies to purchase for following season (Weston-YMCA)

# **Weston Aquatic Center Proposed Opening Plan for 2020 due to Covid-19**

**This plan has been developed in accordance with the Wisconsin Economic Development Corporation Covid-19 Entertainment and Amusement Service Guidelines, Red Cross advice about Safer First Aid, CPR and Lifeguarding and CDC Considerations for Public Pools during Covid-19.**

## **Facility Operation**

1. Proposed opening date of June 13<sup>th</sup>, 2020.
2. Propose to charge \$4.00 per person for entry.
3. Reduce pool capacity from 867 to 200 (less than 25% capacity) per swim session (600 maximum daily attendance). Pool area is 13,223 square feet and grass area is 44,000 square feet.
4. Entry to facility will be accomplished by reservation (pre-payment with credit card) via Book King Software through village website. If capacity is not met via reservation may allow walk-ins to reach capacity. Staff will get name/contact information from walk-ins.
5. Propose to initially keep the slides, diving board, volleyball court, sand play area and structure, water walk, water play structure, water basketball and water riders closed. These facilities will be opened in phases based on how well staff is able to manage the current plan and how the operation is functioning.
6. Propose having three sessions per day allowing 200 people in per session every three hours from Monday through Saturday and two sessions on Sundays. Session times Monday through Saturday would be from 11:00 a.m. to 2:00 p.m., 2:00 p.m. to 5:00 p.m. and 5:00 p.m. to 8:00 p.m. Sundays would be 1:00 p.m. to 4:00 p.m. and 4:00 p.m. to 7:00 p.m. Maximum capacity Monday through Saturday would be 600 people and 400 people on Sundays if all time slots are filled. Actual swim time per session Monday through Saturdays would be 11:30 a.m. to 1:30 p.m., 2:30 p.m. to 4:30 p.m. and 5:30 p.m. to 7:30 p.m. Sunday swim times would be 1:30 p.m. to 3:30 p.m. and 4:30 p.m. to 6:30 p.m. The extra ½ hour before the swim time will allow people time to enter the facility as we know that we cannot get 200 people in the facility immediately at their reservation time. The extra ½ hour after their reserved swim time is to allow people to exit the facility and allow for cleaning of the facility between swim sessions.
7. Men's and Women's showers inside the building will be reduced from 12 shower heads on each side to 2 shower heads in each room to accommodate social distancing. Outdoor showers will be reduced from 3 shower heads per station to

1 shower head per station to accommodate social distancing. The three sinks in each of the two locker rooms will be reduced to two sinks in each area. Soap dispensers, paper towel dispensers and garbage cans will be provided by all sinks in locker rooms.

8. Toilet stalls in women's locker room will be reduced from 5 to 3 to accommodate social distancing and reduce cleaning.
9. Toilet stalls and urinals in men's locker rooms will be reduced from 3 toilet stalls to 2 and urinals from 3 to 2 to accommodate social distancing and reduce cleaning.
10. Drinking fountain will be closed for use.
11. Deck chairs will be reduced to approximately 50 to accommodate social distancing.
12. Group sizes will be limited to 10 people or families. No daycares, summer camps or large groups.
13. Lockers will be closed for use.
14. No loaning out of equipment including lifejackets, basketball or volleyball.
15. No group rentals, birthday parties, swim lessons or special events unless guidelines change. May choose to allow only parent/child or advanced swimmer lessons as there would be no contact with swim teacher.
16. People may swim laps in the designated lap lane areas or in the deep well while the deep well is closed due to the diving board and drop slide being closed.
17. Water walk floating pads and divider ropes will be removed to allow additional pool area to be used.
18. Lifeguards will only be responsible to monitor the water when in their stand but will be assigned to complete other duties when not on stand.
19. Comply with all requirements of ATCP 76 Safety, Maintenance and Operation of Public Pools and Water Attractions.

### **Facility Cleaning**

1. Floors inside facility will be cleaned/sanitized each evening or morning.
2. Cleaning of facility before and between groups will include sanitization of all handrails, outdoor turn style, chairs, benches and commonly touched surfaces inside locker/restroom facilities including (shower knobs, divider handles, toilet and urinal buttons, sinks, hand dryers, paper towel dispensers and benches). Cleaning and sanitizing will be accomplished utilizing various methods while **wearing disposable gloves**. Including spraying and wiping utilizing either a bleach mixture (1/3 cup bleach per gallon of water), Environmental Protection Agency approved chemical or spraying with WYSI Wash System that utilizes a hypochlorous acid/water mixture, which has an Oxidation Reduction Potential of approximately 750 millivolts and between 50 and 200 parts per million total chlorine.
3. Empty trash receptacles on a regular basis and at the end of the day, while wearing disposable gloves.

## **Lobby**

1. Doors propped open to limit touched surfaces to entry and exit of building.
2. Post signage at entrances to inform patrons about changes to our policies and reminding individuals experiencing COVID-like symptoms to stay home.
3. Post signs about how to stop the spread, properly wash hand and promote everyday protective measures.
4. Hand sanitizing stations placed either outside front doors or inside lobby for patrons to use prior to check in or upon exiting facility.
5. Plexiglas shields in place on lobby desk.
6. Limit use of cash register/computers/phones to individuals scheduled. Wipe down keypads/screens/phones between users.
7. Cash, credit card and identification handling will be accomplished by having patron set cash or cards down on counter. Wipe down counter as often as possible.
8. Patrons will have option to either wear mask or not when at facility except for when they are in pool where no masks will be allowed.
9. Encourage/require people to leave the facility utilizing the large maintenance gate in the southwest corner to limit interaction between patrons entering the facility at the front entrance. Hallway entering locker rooms will be hard to accommodate social distancing. Staff will have to unlock gate at the end of each swim session.
10. Place markings outside lobby doors on sidewalk.
11. Do not allow patrons to carry in water toys, sand toys, balls or other forms of play equipment.
12. Patrons may carry in their own lifejackets.

## **Guard Room**

1. Staff will be required to wear masks in guard room due to limited area and not being able to comply with social distancing guidelines.
2. Staff will each have their own rescue tube per shift or rescue tube will be disinfected between users. Rescue tubes will also be disinfected at the end of each day.
3. Staff will be provided their own megaphone per shift or megaphone will be disinfected between users. Megaphones will also be disinfected at the end of each day.
4. No sharing of community food by staff.
5. Refrigerator, microwave, chairs, counter, etc. disinfected after each use.

## **Guard/Staff Safety**

1. No sick employees will be allowed to report to work.
2. Train staff on new processes and procedures.

3. Supply paper towel, soap and hand sanitizer.
4. Emphasize effective hand hygiene.
5. Ensure staff has proper personal protective equipment to wear for first aid and rescues.
6. Each lifeguard will have their own fanny pack that includes their own whistle, pocket mask, nitrile gloves and other protective equipment if necessary.
7. Lifeguard chairs/stands will be disinfected between use by different staff members.
8. **First aid** - Have the person that is being treated place a mask over their nose and mouth. Stay back until that is completed. Wear eye protection, disposable gloves and isolation gown.
9. **CPR** – The risk of transmission is extremely low while performing CPR when using a breathing barrier but if you are uncomfortable, have someone call 911 and start hands only CPR (continuous chest compressions without any mouth to mouth contact) until someone else takes over or emergency help arrives. Wear disposable protective gloves.
10. In water/limited touch rescues will be encouraged.

### **Concession Operation**

1. All staff inside concession stand will wear masks.
2. Sanitizing stations placed outside each concession service window that is used for patron hand sanitizing.
3. Six foot spacing while waiting to order or pick up food will be accomplished by placing markings on ground.
4. Placement of tables by concession stand and outside patio will be adjusted or removed to accomplish social distancing guidelines.
5. Tables will be cleaned between users or as often as possible.
6. Service countertop and soda vending machines will be wiped as often as possible.
7. **Concession Operators will provide their own separate plan to accomplish safe food service.**

### **Monitoring**

1. Monitoring of social distancing on deck, in locker rooms, outside front doors and other common areas will be accomplished utilizing 2 to 4 additional staff members and markings on the ground until guidelines change.
2. Monitoring staff will also complete additional cleaning outside of monitoring patrons.
3. Lifeguard staff may be used in these positions if they are currently not on stand or in the rotation.
4. Monitoring staff will be responsible to ensure guidelines and regulations are followed.

# Weston Aquatic Center

2018, 2019 Actual, 2020 Budget and Estimate

40% Attendance, 58 day% Attendance 58 d 65% Attendance 58 days

	2018 Actual	2019 Actual	2020 Budget	June 27 Opening	June 27 Opening	June 27 Opening
<b>Revenues</b>						
Fees	\$ 93,545	\$ 90,105	\$ 89,000	\$ 52,160	\$ 65,200	\$ 84,760
Passes	21,786	22,614	21,700	-	-	-
Rentals	1,610	3,852	3,100	-	-	-
Birthday Parties	2,655	1,889	1,250	-	-	-
Group Passes	3,250	3,075	2,000	-	-	-
Concessions	6,020	6,407	6,050	2,563	3,204	3,933
Swim Lessons	2,914	3,601	2,900	-	-	-
Other	2,409	3,601	2,385	200	200	200
<b>TOTAL</b>	<b>\$ 134,189</b>	<b>\$ 135,144</b>	<b>\$ 128,385</b>	<b>\$ 54,923</b>	<b>\$ 68,604</b>	<b>\$ 88,893</b>
<b>Expenditures</b>						
Wages/Benefits	113,125	114,589	121,707	51,500	51,500	51,500
Y Contract				35,000	35,000	35,000
Utilities	24,544	26,826	38,750	24,500	24,500	24,500
Contracted Service/Repairs	36,007	34,002	37,600	37,600	37,600	37,600
Supplies & Materials	18,041	19,265	21,575	21,575	21,575	21,575
Capital Outlay - software	2,156	2,275	2,400	2,400	2,400	2,400
<b>TOTAL</b>	<b>193,873</b>	<b>196,957</b>	<b>222,032</b>	<b>172,575</b>	<b>172,575</b>	<b>172,575</b>
<b>Subtotal</b>	<b>(59,684)</b>	<b>(61,813)</b>	<b>(93,647)</b>	<b>(117,652)</b>	<b>(103,971)</b>	<b>(83,682)</b>
Taxes	40,000	40,000	40,000	40,000	40,000	40,000
Room Tax	40,000	40,000	40,000	40,000	40,000	40,000
<b>Net Income (Loss)</b>	<b>20,316</b>	<b>18,187</b>	<b>(13,647)</b>	<b>(37,652)</b>	<b>(23,971)</b>	<b>(3,682)</b>