



## Town Government

# Town Meetings

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February 2018*

## Introduction

The town meeting is a meeting of the electors of a town to exercise powers directly. It descends from meetings in the earliest settlements in New England, and distinguishes towns from other Wisconsin governments. Unlike towns, village, city, county, and state governments act solely through elected representatives. In Wisconsin, town electors may exercise their unique powers via an *annual town meeting*, or at *special town meetings* called for specific purposes.

Towns may exercise only those powers granted by *Wisconsin Statutes*. Specific powers of a meeting of a town's electors can be found in Section 60.10 of the *Wisconsin Statutes*. This fact sheet will review law regarding both the annual town meeting and special town meetings. Suggestions for how to conduct town meetings for various actions, such as setting the town levy, are also included.

Remember the town meeting is a meeting of a town's electors—that is, the people—and is not a meeting of the town board. While town board members attend the town meeting, it is not a meeting of the governing body, and is thus not covered under the Wisconsin Open Meetings Law.<sup>1</sup>

## Powers of the Town Meeting

The powers that may be exercised by the people at a town meeting, and that are binding on the town, are enumerated in *Wis. Stat.* § 60.10. Three categories of town meeting action are authorized:

1. The town meeting may exercise powers directly under *Wis. Stat.* § 60.10(1)
2. The town meeting may grant the town board authority to act on some things (which the board may decide not to do) under *Wis. Stat.* § 60.10(2)

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<sup>1</sup> 66 Op. Att'y Gen. 237 (1977).

3. The town meeting may authorize the appropriation of funds for specific purposes under *Wis. Stat. § 60.10(3)*

The town meeting may act on only those subjects that *Wisconsin Statutes* specifically grant it the power to do so. Actions on other matters have no legal effect at all, and thus are *advisory only*.

### Direct Powers

A town's electors may exercise certain granted powers directly at a town meeting, such as:

- Levy taxes to be spent by the town. The meeting may either levy a dollar amount—say \$50,000, or set a tax rate—say one mill, or a dollar per thousand, on the taxable property in the town. This is the most important power of the town meeting.
- Fix compensation for town offices.
- Combine certain town offices, such as clerk with treasurer or clerk with assessor, or make some town offices part-time.
- Establish or abolish the office of constable.
- Establish election of town board members by means of numbered seats.
- Increase the size of the town board, if the town's population is 2,500 or more, and provide for the appointment of the office of town clerk, treasurer or combined clerk-treasurer.

### Grant of Authority

Electors at the town meeting may also vote *to give certain grants of authority* to the town board. Grants of authority may be "general and continuing," or be of limited scope, or for a specific time. *Wis. Stat. § 60.10(2)*, lists eleven areas where a town meeting may grant authority to the town board. Some examples are:

- Delegate to the town board the authority to levy the property tax to be used for town purposes.
- Exercise village powers for increased regulatory authority.
- Purchase land for town purposes; purchase, lease, or construct buildings; and dispose of town real property.
- Authorize the town to exercise zoning authority in counties with a zoning code using village powers.

The town board, as a legislative body, may decide not to do what the town meeting has authorized, or to do it in a manner different from what the people at the meeting had in mind. However, the board cannot exceed the authority granted to them. No recourse is provided if the town board does not spend the money as the meeting wished, but electors may withdraw a grant of authority if the town board does not do what was intended. The people may also choose to replace town board members at the next election.

### Authorize to appropriate Money

The town meeting *may authorize the board to appropriate money* for certain specific purposes, such as conservation of natural resources by the town or a nonprofit organization, and for civic functions listed in § 60.23(6) , or a rural numbering system.

## Annual Town Meeting Procedures

*Wis. Stat.* § 60.11, deals with *procedures* for holding the annual town meeting.

### When

The annual meeting must be held on the third Tuesday of April<sup>2</sup>, or if so decided by the prior year's annual meeting, within 10 days thereafter. Holding the meeting other than in the period authorized by statute may lead to actions taken at the annual meeting being declared invalid or, at the least, to public suspicion or dissatisfaction. If necessary, the meeting may be recessed to a specific time and date within 30 days of the original date.

### Where

The annual meeting may be held in the town itself or in a town, village or city in the same county, or in an adjoining county. The meeting place must be reasonably accessible to the people. The annual meeting must be held at the same place as where it was held previously, unless the location is changed by the town board. If the location is changed from that of the previous year, a notice must be published or posted as required by statute.

### Notice

If the meeting is held the third Tuesday of April, no public notice needs to be given. However, if the annual meeting is scheduled for a time other than the third Tuesday, notice must be provided as required by law. The notice must include the date, time, and location of the meeting.

### Presiding Officer and Order of Business

*Wis. Stat.* § 60.13, requires that the *presiding officer be the town chairperson*, if present. In an election year it will be the person who was chairperson on the day before the election. If the chairperson is absent, another town board member will chair. If no town supervisor is present, the meeting elects a chairperson from among the electors to conduct it.

The order of business for the meeting is stated by the chairperson. Items may be added by those attending. Remember the meeting may *act* only on those things authorized by statute. Almost anything may be *discussed* at the meeting, and advice may be given to the town board. The chairperson should have a clear idea of which areas the town meeting has legal authority to act and which areas that have no legal effect and may only advise.

### Electors and Voting

*Wis. Stat.* § 60.14, states that *only persons qualified under state law* to vote for state legislators, the president, etc., may vote at the town meeting. The person must be 18 or more years old, and have resided in the town for at least 10 consecutive days prior to the meeting. Electors at the town meeting do not have to be registered voters, just qualified to vote. All actions of the meeting must be by vote. The clerk is required to record the method of voting and the result so the town has an official record. Voting may be accomplished by paper ballot, show of hands, standing, or voice vote. Electors vote on which voting method to use.

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<sup>2</sup> Prior to 2013, the law required the meeting be the *second* Tuesday of April.

## Rules of Order

*Wis. Stat.* § 60.13 requires that *parliamentary procedure* be used to run the meeting. The chairperson needs to be familiar with parliamentary procedure and be responsible for maintaining an orderly meeting. Motions must be made and seconded and discussion should be germane to the issue under consideration. The chair should state the motion before the vote is taken. The chairperson should not move, but may vote on motions.

*Reconsideration* of a matter on which a vote has been taken has a special statutory procedure.<sup>3</sup> For a matter to be reconsidered at a town meeting the meeting must agree, by vote, within one hour of the original action, to reconsider. A proper motion to reconsider is first moved and seconded. If that passes, the next vote is on the item itself. If more than an hour passes, the issue must be scheduled as the subject of a special town meeting.

## Clerk and Minutes

The *town clerk acts as clerk* of the meeting. In an election year, this is the newly elected clerk. If the clerk is not present, the deputy clerk serves, or, in the absence of the deputy clerk, the chairperson names a clerk for the meeting. If the electors at the meeting decide to require a poll list, the clerk records the name and address of every elector voting, as well as the method of voting and the result.

The minutes of the meeting must be filed in the office of the town clerk within 5 days of the meeting.<sup>4</sup> *Wis. Stat.* § 60.80, requires that the clerk post or publish within 30 days, all resolutions, motions, or actions adopted at a town meeting.

## Special Town Meetings

*Wis. Stat.* § 60.12, governs special town meetings of the electors. *A special meeting may deal with any topic with which the annual meeting may deal.* This can be a subject which has arisen since the annual meeting, and which is a proper subject of action by the electors, or it could be a reconsideration of an action taken at the annual meeting.

A special meeting is called in one of three ways.

1. An annual or special town meeting may provide for a special meeting in the future, or
2. A certain number of electors may sign a written *request* and give it to the town clerk, or
3. The town board may *call* the special meeting by voting on a motion to do so at a town board meeting. The town board then decides where the meeting is to be held.

Both a requests and calls must include the purpose, time, and date of the special meeting. If an action of a previous meeting of the electors is to be reconsidered, that must be stated in the notice. The town clerk is required to publish a Class 2 notice for a special meeting under Chapter 985 of the *Wisconsin Statutes*.

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<sup>3</sup> *Wis. Stat.* § 60.14(4).

<sup>4</sup> *Wis. Stat.* § 60.15.

The location of the last annual meeting must be used for a special meeting unless it is changed by the town board. A special meeting may be recessed to a specific time and date for not longer than 30 days.

## Some Suggestions for Town Meetings

The Wisconsin Towns Association offers these suggestions about annual and special meetings.

### When to Set the Levy for Town Purposes

The town meeting has the power to set the levy, that is, the amount of property taxes to be collected and used by the town government, but does not have the power to make expenditures. In most towns the levy amounts to less than one-half of the total amount spent by the town. Decisions about how to spend the funds from the levy, highways aids, and other funds are almost all made by the town board as it adopts the town budget in November or December.

If the town board has not been delegated the authority to adopt the levy<sup>5</sup>, the levy should be adopted at a special town meeting held in conjunction with the hearing that the town board must hold before it adopts the budget. To fit the levy to the needs of the budget for the town would be difficult at the annual meeting in the spring, when expenses for the following year are not yet so clearly known.

As noted earlier, the town meeting may delegate the authority to the town board to set the levy. The town board would then have the power to set both the tax levy and the expenditures of the town, much like a city council or a village board. The town meeting can rescind this grant of authority. *The budget is adopted by the town board—not the meeting.* The budget is the legal document on which expenditures are based, some of which may be specifically authorized by the town meeting, such as for establishing a rural numbering system.

### Running the Meeting

Annual and special town meetings must be run according to parliamentary procedure. Chairpersons need to be familiar with parliamentary procedure so as to conduct an orderly meeting in which people have a fair opportunity to be heard. The chair should be familiar with Robert's Rules of Order, or other parliamentary procedure, and be able to deal with procedural questions. The town meeting may want to appoint a parliamentarian.

The chairperson can order a disorderly person to be withdrawn from the meeting. A constable or law enforcement officer may take a disorderly person into custody until the meeting is adjourned. Preferably, they would be escorted from the building and asked to leave. A sheriff's deputy could do this, unless there is a town police force or constable with full arrest powers authorized specifically by the town board.

### Agenda

An agenda is not required by statute in advance of an annual meeting. If the town board anticipates bringing up particular subjects at the meeting, though, an agenda should be made up

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<sup>5</sup> Wis. Stat. § 60.10(2)(a).

to inform people of the topics for town meeting action. This agenda can be posted and/or published. Publishing is recommended so that the information is as widely disseminated as possible. If you change the time or place of the annual meeting, you can make the agenda part of the notice required for that.

### Standard Business

Newcomers to town meetings should know they will be asked to approve the minutes of last year's meeting or of any special meeting, if not already approved. The town board typically presents the annual financial report. A new activity or issue that requires town meeting action is new business. An item could result from the town board trying to get a feeling of the electors' views on a subject, which would generally be advisory. Old business can be brought up from a previous meeting.

### Authorizing Town Highway Expenditures

Town board now makes all decisions regarding the amount of highway expenditures for the town. Prior to 2015, the town meeting needed to authorize highway expenditures if they were in excess of an amount designated by a now repealed statute. Usually that authorization was decided at the special meeting held in conjunction with the budget hearing. Today the special town meeting notice no longer needs to include an item regarding authorizing town highway expenditures.<sup>6</sup>

### Right to Vote at Town Meetings

Eligible voters, including Town board members, are qualified electors in the town. They may vote on any issues on which any town electors may vote, even when the meeting votes to set salaries for elected officials. Increases or decreases in salaries only take effect in the next term. There is no absentee voting or voting by proxy allowed.

Property owners who are not residents of the town often feel that they should have a right to vote because they will have to bear part of the burden of a particular expenditure through payment of town taxes. The town chairperson may acknowledge such persons and allow them to speak, but only qualified electors can vote. This has been decided by the state legislature in § 60.14(1) of the statutes. The town chairperson cannot make the decision to allow them to vote.

Sometimes confusion may arise if an inland lake management district has been created in a town. State statutes covering lake management districts permit property owners who are not electors to vote in district annual and special meetings.

### Participation in Town Meetings

This summary should not make anyone feel that the business of town meetings is too complicated for them to become comfortably involved. Every year thousands of town residents actively participate in annual and special town meetings. Although all aspects of the meetings should be handled in conformance with the statutes, regular citizens who are not lawyers have run and participated in town meetings for over 150 years, and towns have prospered. They will continue to prosper if citizens of towns continue to do their important part in town government.

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<sup>6</sup> 2015 ACT 105

## Acknowledgements

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