

# **WISCONSIN OPEN MEETINGS and PUBLIC RECORDS LAW**

City of Fond du Lac City Attorney

# Purpose of the Law

In recognition of the fact that a representative government of the American type is dependent upon an informed electorate, it is declared to be **the policy of this state** that **the public is entitled to** the fullest and most **complete information** regarding the **affairs of government** as is **compatible with** the conduct of **governmental business**, Sec. 19.81(1), Wis. Stats.

# What Meetings Are Covered?

Statutory Definition of a Meeting- “the convening of members of a governmental body for the purpose of exercising the responsibility, authority, power or duties delegated to or vested in the body.”

# What is it really?

Must conduct governmental business.  
Discussion/debate, information  
gathering, public hearings, or for  
decision making

AND

Sufficient number of members present  
that can *determine the parent body's  
course of action* on the subject under  
discussion

# Negative Quorum

A gathering of less than a quorum can determine the parent body's course of action, such as when enough members are present to block passage of an action

# Walking Quorum

A series of gatherings or contacts (phone calls, conference calls, emails, chat rooms, facebook posts) among members

# Social gatherings & Chance Meetings

Are Permissible -

- Meeting /encounter is not an attempt to circumvent public meetings law
- Business of the parent body does not get discussed nor acted upon
- If a quorum or more is present – the body will be presumed to have held a meeting and will incur the responsibility of proving that it did not meet to engage in governmental business



# Attendance at Another Body's Meeting & Joint Meetings

- Constitutes a meeting if the members attend in order to exercise their responsibilities
- Must provide notice – Badke Notice
  - Sometimes it is appropriate to provide in the notice that “a quorum of the XYZ committee may be present in attendance at the ABC Board meeting for the purpose of ...”
  - We can do a similar notice for planned events where a quorum may be present, though no action is planned.



# Enforcement

- Prosecution  
Attorney general, district attorney or an individual citizen may initiate prosecution
- Penalty
  - Forfeiture of \$25.00 to \$300 plus statutory costs (nearly double the total)
  - Liability is personal, city cannot reimburse individual
- Actions taken during illegal meeting may be voided

# Wisconsin Public Records Law

- Wis. Stat. §§ 19.31 to 19.39
- Objectives:
  - Shed light on workings of government and acts of public officers and employees
  - Assist members of the public in becoming an informed electorate
  - Serve a basic tenet of our democratic system by providing opportunity for public oversight

# Public Record Roles

- **Authority** - Defined in Wis. Stat. § 19.32(1) - any of specified entities having custody of a record; Very similar to “governmental body” in Open Meetings law
- **Legal Custodian** - Defined in Wis. Stat. § 19.33 - vested by an authority with full legal power to render decisions and carry out public records responsibilities; Elective official, chairperson of a committee of elected officials, or designee
- **Requester** - Defined at Wis. Stat. § 19.32(3); Generally, any person who requests to inspect or copy a record.
  - Requester need not state the purpose of the request
  - Requester generally need not identify himself or herself
  - Motive generally not relevant, but context appropriately considered

# Wisconsin Ethics Rules

- **Accepting items**
- A local public official may not accept items or services of substantial value for private benefit, or for the benefit of the official's immediate family or associated organizations, if offered because of public position.
- A local public official may not accept (and no one may offer or give) anything of value that could reasonably be expected to influence the official's vote, official actions or judgment.
- A local public official may not accept (and no one may offer or give) anything of value that could reasonably be considered a reward for any official action or inaction.
- **Controlling conflicting interests**
- A local public official may not take official action substantially affecting a matter in which the official, the official's family, or associated organization has a substantial financial interest.
- A local public official may not use office or position to produce a substantial benefit for an official, immediate family member, or associated organization.