

COUNTY BOARD PROCESSES – RESOLUTIONS, ORDINANCES, POLICIES

HOW ARE THEY DIFFERENT, HOW ARE THEY ADOPTED, HOW DO THEY AFFECT ME?



CONSTITUTIONAL FOUNDATIONS

- **COUNTIES ARE POLITICAL SUBDIVISIONS OF THE STATE OF WISCONSIN.**
 - **PRIMARY AUTHORITY DERIVED FROM WISCONSIN CONSTITUTION, ARTICLE IV.**
 - **COUNTIES HAVE ONLY POWERS DELEGATED BY THE STATE LEGISLATURE.**

STATUTORY AUTHORITY – WIS. STAT. CH. 59

- **CHAPTER 59 OUTLINES GENERAL POWERS OF COUNTY BOARDS.**
 - **AUTHORITY INCLUDES TAXATION, BUDGETING, ZONING, HEALTH SERVICES, AND LAW ENFORCEMENT.**
 - **COUNTIES MAY ACT FOR THE ADMINISTRATIVE AND FINANCIAL WELFARE OF THE COUNTY.**

LIMITATIONS ON COUNTY AUTHORITY

- **COUNTIES CANNOT EXERCISE POWERS NOT GRANTED BY STATUTE.**
 - **SUBJECT TO STATE PREEMPTION—STATE LAW CONTROLS IN CONFLICTS.**
 - **LIMITED HOME RULE COMPARED TO CITIES AND VILLAGES.**

COUNTY BOARD POWERS

- **LEGISLATIVE AUTHORITY TO ADOPT ORDINANCES AND RESOLUTIONS.**
 - **BUDGET ADOPTION AND FISCAL OVERSIGHT.**
 - **AUTHORITY TO CREATE AND ORGANIZE DEPARTMENTS AND COMMITTEES.**
 - **A LOT OF TIMES THESE ORDINANCES/ POLICIES ARE DIRECTLY RELATED TO STATE MANDATES.**



EXAMPLES OF COUNTY AUTHORITY IN PRACTICE THAT AFFECTS YOU

- **ADOPTION OF ZONING ORDINANCES**
- **ORDINANCES CREATING A COUNTY HEALTH DEPARTMENT AND REGULATIONS TO BE ENFORCED (OVERLAPS WITH ZONING IN SOME CASES)**

ADMINISTRATIVE VS. LEGISLATIVE AUTHORITY

- **ADMINISTRATIVE: DAY-TO-DAY OPERATIONS, TYPICALLY DELEGATED TO EXECUTIVE, ADMINISTRATOR OR ADMINISTRATIVE COORDINATOR**
- **COUNTY BOARD MAY NOT INTERFERE WITH ADMINISTRATIVE FUNCTIONS ONCE DELEGATED.**

COUNTY EXECUTIVE, ADMINISTRATOR, ADMINISTRATIVE COORDINATOR ROLES

- **ALL THREE FORMS OF GOVERNMENT MANAGE DAILY OPERATIONS IN SOME FASHION.**
- **STATUTES DELEGATE THE FUNCTION OF EACH FORM OF GOVERNMENT**

CHART OF DUTIES AND POWERS

(CREDIT TO THE WISCONSIN COUNTIES ASSOCIATION)

County Administrative Options

TOPIC	EXECUTIVE (Wis. Stat. § 59.17)	ADMINISTRATOR (Wis. Stat. § 59.18)	ADMIN. COORDINATOR (Wis. Stat. § 59.19)
How created	Board resolution or citizen petition/referendum	Board resolution or citizen petition/referendum	Board resolution or ordinance
How chosen	Spring election every four years (nonpartisan)	Appointed by majority vote of board	Appointed by majority vote of board
Qualifications	U.S. citizen, 18 years of age, qualified elector	Training, experience, education (no consideration for residence, nationality or political affiliation)	Elected or appointed county official and other qualifications set by board
Source of powers	State statutes	State statutes	Limited state statutes and board resolution/ordinance
Removal	By governor for cause	By majority vote of board	By majority vote of board
Budget authority	Prepares and presents to board	Prepares and presents to board	Only as authorized by board
Veto board actions	Yes	No	No
Department heads	Appoints (subject to board confirmation), removes at pleasure	Appoints (subject to board confirmation), removes at pleasure	No authority unless granted by board
Advisory committees/ boards	Appoints, removes subject to board confirmation unless waived or made under civil service	Appoints, removes subject to board confirmation unless waived or made under civil service	No authority unless granted by board
Coordinate departments	Yes	Yes	Only management functions not assigned departments by ordinance or law

COUNTY EXECUTIVE

- **EXECUTIVE SYSTEM RUNS LIKE STATE LEGISLATURE**
- **COUNTY EXECUTIVE CAN VETO COUNTY BOARD DECISIONS**
- **COUNTY ADMINISTRATOR OR ADMINISTRATIVE COORDINATOR DO NOT HAVE THIS POWER**
- **COUNTY BOARD CAN OVERRIDE A VETO WITH 2/3 MAJORITY VOTE**
 - **CAN LEAD TO VERY INTERESTING OUTCOMES...**

COUNTY EXECUTIVE

- **THE VETO POWER CAN MEAN THAT PRIORITIES OF THE BOARD CAN BE ALTERED BY COUNTY EXECUTIVE**
 - ***COMMON ISSUE: BUDGET AND SPENDING***

COUNTY ADMINISTRATOR

- **THE ONLY EMPLOYEE OF THE COUNTY BOARD**
- **APPOINTS DEPARTMENT HEADS**
- **PREPARES BUDGET FOR COUNTY BOARD**
- **MANAGES DAILY OPERATIONS OF THE COUNTY**

COUNTY ADMINISTRATIVE COORDINATOR

- **DEFAULT FORM OF GOVERNMENT**
- **DUTIES ASSIGNED BY COUNTY BOARD**
- **RESPONSIBLE FOR COORDINATING ALL ADMINISTRATIVE AND MANAGEMENT FUNCTIONS**
- **DOES NOT SUPERVISE DEPARTMENT HEADS**
- **DOES NOT PREPARE THE BUDGET**
- **CAN BE AS STRONG, OR AS WEAK, AS THE BOARD DECIDES**

WHAT IS A POLICY?

- **A COURSE OR PRINCIPLE OF ACTION ADOPTED OR PROPOSED BY AN ORGANIZATION OR INDIVIDUAL.**
- **ADOPTION OF A RESOLUTION/POLICY REQUIRES A VOTE OF THE MAJORITY OF THE BOARD.**
- **WHEN A POLICY INVOLVES A CHANGE TO THE BUDGET THAT REQUIRES A 2/3 MAJORITY OF THE BOARD.**
- **IF THE RESOLUTION INVOLVES BORROWING MONEY THAT REQUIRES $\frac{3}{4}$ MAJORITY OF THE BOARD.**

WHAT IS THE BIGGEST POLICY DOCUMENT IN THE COUNTY?

- **YEARLY BUDGET:**

THIS DETERMINES PRIORITIES OF THE COUNTY FOR THE COMING YEAR, AND GUIDES FUTURE PLANNING

SO WHAT DOES THIS MEAN FOR ZONING?

- **DETERMINE THE STAFFING LEVEL FOR THE DEPARTMENT**
- **FUNDING FOR FUTURE PROJECTS/EQUIPMENT**
 - **VEHICLES**
 - **ENGINEERING SERVICES (WHICH YOU MAY BE ABLE TO RE-COUP THROUGH PERMITTING PROCESS)**
- **DETERMINE FUNDS AVAILABLE FOR ENFORCEMENT**
 - **CLEAN-UP COSTS**
 - **OUTSIDE COUNSEL**

ORDINANCES

- **A LOCAL LAW OF A MUNICIPAL CORPORATION, DULY ENACTED BY THE PROPER AUTHORITIES, PRESCRIBING GENERAL, UNIFORM, AND PERMANENT RULES OF CONDUCT RELATING TO THE CORPORATE AFFAIRS OF THE MUNICIPALITY.**

ZONING ORDINANCES

- **REQUIRED BY STATE TO HAVE A ZONING ORDINANCE**
- **REQUIRED BY STATE TO HAVE SHORELAND ZONING ORDINANCE (AND IT HAS TO BE APPROVED BY THE STATE)**
- **FLOODPLAIN ZONING**
 - **GOES BACK TO THAT IDEA OF HOME RULE AUTHORITY AND COUNTIES BEING AN ARM OF THE STATE**

ORDINANCES CONTINUED

- **OTHER ORDINANCES WHERE ZONING DEPARTMENT MAY HAVE OVERSIGHT:**
 - **POWTS**
 - **PLAT REVIEW**
 - **NON-METALLIC MINES & METALLIC MINES**
 - **BOARD OF ADJUSTMENT**

THINGS CAN GET TRICKY

- **EXECUTIVE CAN VETO ORDINANCE AMENDMENTS – I AM NOT SURE HOW OFTEN THIS HAPPENS OR REPERCUSSIONS IF VETO MEANS THAT THE COUNTY IS OUT OF COMPLIANCE WITH SHORELAND ZONING STANDARDS OR FARMLAND PRESERVATION STANDARDS**
- **IF A TOWN HAS ITS OWN ZONING CODE – THE COUNTY HAS TO APPROVE**
 - **I HAVE ZERO IDEA WHY THIS IS**

DO ORDINANCES AND POLICY INTERSECT?

- **YES - THEY DO**
- **LOOK AT ZONING ORDINANCE AND USES IN EACH ZONING DISTRICT**
 - **POLICY DETERMINES WHAT USES ARE ALLOWED, CONDITIONAL USES, OR SPECIAL USE IN EACH DISTRICT**
 - **POLICY DETERMINES WHAT PERMITS THAT THE ZONING COMMITTEE CAN DECIDE, OR BOARD OF ADJUST CAN DECIDE**

THE INTERSECTION CONTINUED

- **SHORELAND ZONING ORDINANCES**
 - **GENERALLY CONTROLLED BY CHAPTER 30 AND NR 115**
 - **THERE MAY BE AREAS THAT THE COUNTY HAS SOME “WIGGLE ROOM” IN HOW THEY WANT TO REGULATE**
 - **THE “WIGGLE ROOM” IS A POLICY DECISION**
 - **ONE EXAMPLE – BOATHOUSES**
 - **ONEIDA COUNTY LAKE CLASSIFICATION SYSTEM**
 - **DIMENSIONAL ASPECTS**

THE INTERSECTION CONTINUED

- **AREAS WHERE POLICY CHOICES ARE LIMITED WHEN DRAFTING ORDINANCES**
 - **WIND AND SOLAR REGULATION – STATE ORDINANCE CONTROLS**
 - **CONSTITUTIONAL RIGHTS**
 - **SIGNS**
 - **ADULT BUSINESSES**

QUESTIONS?

- **THIS PRESENTATION IS NOT LEGAL ADVICE, CONTACT YOUR CORPORATION COUNSEL FOR SPECIFIC QUESTIONS**