

WISCONSIN STATE STATUTE
60.10 POWERS OF TOWN MEETING

60.10(1) Direct powers.

The town meeting may:

- (a) **Raise money.** Raise money, including levying taxes, to pay for expenses of the town, unless the authority has been delegated to the town board under sub. (2) (a).
- (b) **Town offices and officers.**
 - 1. Fix the compensation of elective town offices under s. 60.32, unless the authority has been delegated to the town board under sub. (2) (k).
 - 2. Combine the offices of town clerk and town treasurer under s. 60.305 (1).
60.10(1)(b)2m.
2m. In a town with a population of 2,500 or more, provide for the appointment by the town board of the town clerk, town treasurer, or both, or of the combined office of town clerk and town treasurer under s. 60.305 (1), at a level of compensation to be set by the board that may not be reduced during the term to which the person is appointed.
 - 3. Combine the offices of town assessor and town clerk under s. 60.305 (2).
 - 4. Establish or abolish the office of town constable and establish the number of constables. Abolition of the office is effective at the end of the term of the person serving in the office.
 - 5. Designate the office of town clerk, town treasurer or the combined office of clerk and treasurer as part-time under s. 60.305 (1) (b).
 - 6. Designate town board supervisors as full-time officers.
- (c) **Election of town officers.**
 - 1. Adopt a plan under s. 5.60 (6) to elect town board supervisors to numbered seats.
 - 2. Provide under s. 8.05 (3) (a) for the nomination of candidates for elective town offices at a nonpartisan primary election.
- (e) **Cemeteries.** Authorize the acquisition and conveyance of cemeteries under s. 157.50 (1) and (3).
- (f) **Administrator agreements.** Approve agreements to employ an administrator for more than 3 years under s. 60.37 (3) (d).
- (g) **Hourly wage of certain employees.** Establish the hourly wage to be paid under s. 60.37 (4) to a town employee who is also an elected town officer, unless the authority has been delegated to the town board under sub. (2) (L).

60.10(2) Directives or grants of authority to town board.

Except as provided under par. (c), directives or grants of authority to the town board under this subsection may be general and continuing or may be limited as to purpose, effect or duration. A resolution adopted under this subsection shall specify whether the directive or grant is general and continuing or whether it is limited as to purpose, effect or duration. A resolution that is continuing remains in effect until rescinded at a subsequent town meeting by a number of electors equal to or greater than the number of electors who voted for the original resolution. This subsection does not

limit any authority otherwise conferred on the town board by law. By resolution, the town meeting may:

- (a) Raise money. Authorize the town board to raise money, including levying taxes, to pay for expenses of the town.
- (b) Membership of town board in populous towns. In a town with a population of 2,500 or more, direct the town board to increase the membership of the board under s. 60.21 (2).
- (c) Exercise of village powers. Authorize the town board to exercise powers of a village board under s. 60.22 (3). A resolution adopted under this paragraph is general and continuing.
- (d) General obligation bonds. Authorize the town board to issue general obligation bonds in the manner and for the purposes provided by law.
- (e) Purchase of land. Authorize the town board to purchase any land within the town for present or anticipated town purposes.
- (f) Town buildings. Authorize the town board to purchase, lease or construct buildings for the use of the town, to combine for this purpose the town's funds with those of a society or corporation doing business or located in the town and to accept contributions of money, labor, or space for this purpose.
- (g) Disposal of property. Authorize the town board to dispose of town real property, other than property donated to and required to be held by the town for a special purpose.
- (h) Exercise of certain zoning authority. In a town located in a county which has enacted a zoning ordinance under s. 59.69, authorize, under s. 60.62 (2), the town board to enact town zoning ordinances under s. 61.35.
- (i) Watershed protection and soil and water conservation. Authorize the town board to engage in watershed protection, soil conservation or water conservation activities beneficial to the town.
- (j) Appointed assessors. Authorize the town board to select assessors by appointment under s. 60.307 (2).
- (k) Compensation of elective town offices. Authorize the town board to fix the compensation of elective town offices under s. 60.32 (1) (b).
- (l) Hourly wage of certain employees. Authorize the town board to establish the hourly wage to be paid under s. 60.37 (4) to a town employee who is also an elected town officer, other than a town board supervisor.

60.10(3) Authorization to town board to appropriate money.

The town meeting may authorize the town board to appropriate money in the next annual budget for:

- (a) Conservation of natural resources. The conservation of natural resources by the town or by a bona fide nonprofit organization under s. 60.23 (6).
- (b) Civic functions. Civic and other functions under s. 60.23 (3).
- (c) Insects, weeds, and animal diseases. The control of insect pests, weeds or plant or animal diseases within the town.
- (d) Rural numbering systems. Posting signs and otherwise cooperating with the county in the establishment of a rural numbering system under s. 59.54 (4) and (4m).

(e) Cemetery improvements. The improvement of the town cemetery under s. 157.50 (5).

60.10 - The terms "authorize" and "direct" in sub. (2) are not used interchangeably. A town meeting that "authorize(s)" an act gives the town board permission to do the act within its discretion, but if it "direct(s)" that an act be done, the action is mandatory. Graziano v. Town of Long Lake, 191 Wis. 2d 813, 530 N.W.2d 55 (Ct. App. 1995).

The Annual Town Meeting

by Wisconsin Towns Association Attorney Lee Turonie

Every town is required to hold an annual town meeting. Wis. Stat. § 60.11(1). Below are some reminders on this upcoming event.

Preliminaries

By default, the annual town meeting is held on the third Tuesday in April. § 60.11(2)(a). If it will be on that day, and at the same place and time as the prior year, no notice is even required to be made. § 60.11(5). But it is good practice to provide notice regardless of that.

The annual town meeting can only be scheduled for a different date than the third Tuesday in April if that had been done by the prior annual town meeting. There is not another way to do that. If timely done the annual town meeting can be scheduled to be on any day within ten days after the third Tuesday in April but not before that date. § 60.11(2)(b). However, whenever the first meeting takes place if upon that day it seems not to be ideal, the electors can vote to adjourn it to a specific time and date within the next 30 days. § 60.11(4).

An annual town meeting that is not being held on the third Tuesday in April or with any change to the time and location from the previous year requires a Class 2 notice, published, or posted, starting not more than 20 nor less than 15 days prior to the meeting. § 60.11(3)(b).

The annual town meeting may transact any business over which the town meeting has jurisdiction. § 60.11(6). No agenda is required to be noticed. The annual town meeting is an exception to the open meetings law in this regard. Again however, it is good practice to notice more information to citizens especially if anything unusual is anticipated.

A meeting of the electors

The annual town meeting is a meeting of the town's electors, with those present comprising the body that is meeting. § 60.14(1). A qualified elector is someone eligible to vote in the town per Ch. 6 of the state statutes but he or she does not have to be a registered voter. A qualified elector

is a U.S. citizen at least 18 years old and a resident of the town for at least 28 consecutive days prior to the annual town meeting.

If asked by the electors, the clerk must keep a poll list. § 60.15. This can be useful to ensure that only electors vote, and it can be important to keep track of how many people voted for or against some matters. There are many actions that can be rescinded at a later electors' meeting by an equal or greater number of votes. § 60.10(2). Anyone suspected of not being a qualified elector should have that addressed with a point of order per parliamentary procedure.

Any qualified elector present may make or second motions, participate in discussion of a matter and vote. The annual town meeting is not a town board meeting; town officials are generally just electors like everyone else at the annual town meeting. (Just one exception: in traditional parliamentary procedure for assemblies, unlike a board meeting, the chair does not make or second motions although he or she can still discuss and vote on everything.)

All actions are decided by a majority of the electors present and voting. § 60.14(2). There is no absentee or proxy voting allowed. Voting can be done by show of hands, voice vote or paper ballot. The voting method is as stated by the chair unless the electors decide to vote on that too. The chair may recognize people who are not qualified electors and let them speak to the assembly but such people cannot make or second any motions or vote (most commonly such people are non-resident landowners).

Officer roles

The chair of the town board is also the chair of the annual meeting. In an election year, if there has been a change in the chair position, the person who was chair prior to that election still has the option of chairing the annual town meeting if he or she so wishes. If the chair is absent, another board member is to act as chair. If there are no board members present, the annual town meeting elects a chair to run the meeting. § 60.13.

The chair must conduct the meeting according to rules of parliamentary procedure and is responsible to maintain order and decorum for the meeting. § 60.13. A disorderly person who continues that behavior after being ordered not to may be ordered to leave. For someone who refuses to keep order and/or to leave resort should be made to law enforcement.

The town clerk is also the clerk of the annual town meeting. In the clerk's absence a deputy clerk may serve. If both are absent the chair is to appoint a clerk for the meeting. The clerk must take the minutes and sign and file those minutes in the office of the town clerk within five days after the meeting. § 60.15. Finally, the clerk must notice any motions or resolutions adopted at the electors' meeting to the public within 30 days after the meeting. § 60.80(1)(a). (The electors cannot pass ordinances.)

Finally, the town board shall prepare a statement of the financial condition of the town showing the previous year's revenues and expenditures and the current indebtedness of the town and present that to the annual town meeting. In preparing the statement, the board may provide for assistance by any person. § 60.41.

Getting to business

§ 60.10 lists the vast majority of annual town meeting powers that can be acted upon. A few others can be found elsewhere, such as in § 82.03(2)(a) to approve of highway expenditures in excess of \$5,000 per mile of town highways for the year. However, it is important to realize that the elector meeting is limited in authority. Actions on issues for which the electors have no legal authority to act are advisory only and without any legal effect.

Finally, note that in § 60.10 many of the possible elector actions function as authorizations, not mandates to the town board. For such matters the town board is not legally obligated to do anything and may still choose to do nothing in the end. Wisconsin has a limited type of elector meeting that must work in conjunction with the town board. Thus, such instances do not present a problem of legal substance and are instead issues of a simply political nature.