

ILLINOIS MUNICIPAL LEAGUE

Annual Conference

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Hilton Chicago Hotel

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FRIDAY, SEPTEMBER 23, 2016

1:00 TO 2:00 P.M.

ILLINOIS MUNICIPAL HANDBOOK Q&A

QUESTIONS & ANSWERS

PRESENTERS:

ROBERT BUSH

STEWART DIAMOND

KERI-LYN KRAFTHEFER

JULIE TAPPENDORF

STEVE MAHRT

MODERATOR: MAYOR JOE BRODA, LISLE

ILLINOIS MUNICIPAL HANDBOOK

Category 1: General Governance (Chapters 1, 2 & 6 in Illinois Municipal Handbook)

1. Must a municipality use a committee system? (Cat. 1, Val. 10)

A. No, there is no statutory requirement, although many municipalities have adopted a standing committee or committee of the whole structure.

2. Do all ordinances require two readings? (Cat. 1, Val. 20)

A. No, there is no statutory requirement that an ordinance have a first and second reading before it is approved, although some municipalities have adopted a local requirement.

3. Can the mayor veto an ordinance at the same meeting at which it was approved? (Cat. 1, Val. 30)

A. No, the mayor must deliver the veto to the board, in writing, at the next meeting.

4. Can a municipality abolish an office once created? (Cat. 1, Val. 40)

A. Yes, 2/3 of the council or board may approve an ordinance or resolution discontinuing an office created by the municipality, effective at the end of the fiscal year in which it is passed.

5. Can a village board considering a home rule referendum agree to limit its future home rule powers? (Cat. 1, Val. 50)

A. No, once a municipality is home rule, it has all of the home rule powers granted by Illinois statute and constitution.

Category 2: Elections & Appointments (Chapters 3 & 4 in Illinois Municipal Handbook)

6. Can we require residents to remove election signs from their yards after an election? (Cat. 2, Val. 10)

A. No. State law restricts the ability of municipalities to impose time restrictions on the display of political signs on residential property.

7. Can we send out a newsletter encouraging people to vote yes on our proposed sales tax referendum? (Cat. 2, Val. 20)

A. No. State law prohibits the use of public funds to promote a candidate or referendum. However, you can disseminate “factual information” about the referendum.

8. A trustee candidate has not paid her water bills for years, but pays them the day she files her petitions. Is she disqualified from running for office because of her long term indebtedness to the municipality? (Cat. 2, Val. 30)

A. No.

9. Who appoints the deputy clerk - the village clerk, mayor, or village board? (Cat. 2, Val. 40)

A. Pursuant to 65 ILCS 5/3.1-30-10, the municipal clerk has the authority to appoint one or more deputy clerks to assist the clerk, "when authorized by the corporate authorities."

10. Must a candidate file his statement of economic interest with the municipal clerk? (Cat. 2, Val. 50)

A. No, the candidate must file the statement of economic interest with the county clerk, and then file the receipt of filing with the municipal clerk.

Category 3: Officers & Employees (Chapters 5, 11 & 12 in Illinois Municipal Handbook)

11. Can a municipality fire an "at will" employee without cause? (Cat. 3, Val. 10)

A. Yes, unless the employee has an employment agreement or is subject to a union contract imposing other conditions on the employee's termination. An "at will" employee can generally be terminated for any reason or no reason, provided the termination is not based on unlawful discrimination.

12. A developer has an application pending to build a casino in the city and would like to take the city council to Las Vegas, all expenses paid by the developer. Is that ok? (Cat. 3, Val. 20)

A. Probably not. The Gift Ban Act prohibits officers and employees from accepting any gift from a prohibited source. The all-expenses paid trip would certainly exceed the \$100 per calendar year exemption and is not likely to fall within the educational mission or business travel exemptions.

13. Does an elected office become vacant if the office holder moves out of the municipality? (Cat. 3, Val. 30)

A. Not necessarily, if the move is temporary and the office holder intends to return.

14. Can a municipal officer hold a second paid office in the municipality? (Cat. 3, Val. 40)

A. As a general rule, no. There are a few exceptions such as a clerk/collector.

15. Can a council or board grant additional duties or take away duties from an appointed office? (Cat. 3, Val. 50)

A. The corporate authorities can assign additional duties to an office or remove duties previously established by ordinance or tradition, so long as these duties are not assigned by statute.

Category 4: Meetings & FOIA (Chapters 7 & 8 in Illinois Municipal Handbook)

16. Are emails received on a trustee's personal cell phone releasable under FOIA? (Cat. 4, Val. 10)

A. Maybe. If the email discusses public business and is either (1) sent during a village board meeting; (2) forwarded to/from a village account; or (3) transmitted to a majority of the village board, it is subject to FOIA.

17. As an elected official of a public body, am I entitled to access closed session recordings and minutes of the public body? (Cat. 4, Val. 20)

A. Pursuant to a recent change in the law, the answer is yes. Public Act 99-0515 amends the OMA to provide access to closed session "verbatim recordings" and closed session meeting minutes by elected officials, subject to certain limitations.

18. Does a public body have to provide copies of records in response to a FOIA request if those records are posted on its website? (Cat. 4, Val. 30)

A. No. If the requested records are available on the public body's website, the FOIA officer can direct the requester to the website to access the records.

19. Can a city council or village board require an individual to register 5 days in advance of a meeting to speak during public comment? (Cat. 4, Val. 40)

A. No, according to PAC Op. 14-012 (Sept. 30, 2014). Although a public body can adopt rules governing public comment, a five day advance registration rule was considered unreasonable.

20. A board has determined that closed session minutes no longer need to be confidential and wants to approve their release to the public. Does the board also have to release the tape recordings for those closed session meetings? (Cat. 4, Val. 50)

A. No, the board can approve the release of closed session minutes without releasing the closed session tape recordings to the public.

Category 5: Contracts, Land, Finance (Chapters 9, 10, 13 & 15 in Illinois Municipal Handbook)

21. Can municipalities license all businesses? (Cat. 5, Val. 10)

A. Non-home rule municipalities can only license those businesses they are authorized to license by statute. Home rule municipalities can license any business unless preempted by statute.

22. Do we have to competitively bid a contract to purchase a vehicle that will exceed \$20,000? (Cat. 5, Val. 20)

A. Under state law, no. The competitive bidding statute requires competitive bidding for contracts over \$20,000 that involve public improvements or works. However, local purchasing policies may have established additional or stricter rules.

23. Can council or board members visit the site of a zoning application and meet with the applicants to discuss the zoning request? (Cat. 5, Val. 30)

A. Yes, subject to OMA limitations.

24. Can a municipality require a school district to comply with local zoning requirements? (Cat. 5, Val. 40)

A. Yes. A new state law has confirmed a municipality's zoning authority over schools, although the law now requires municipalities to streamline the zoning process.

25. What can a municipality operating under the budget system do if it fails to adopt its budget ordinance before the beginning of its fiscal year? (Cat. 5, Val. 50)

A. A municipality could consider changing the date of its fiscal year and then pass the required ordinance.