

The State of Wisconsin
Department of Justice



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May 5, 1986

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Attorney General

Gerald S. Wilcox
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Mr. Kenneth J. Bukowski
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Dear Mr. Bukowski:

You request my informal opinion whether a member of a municipal governing body can move to reconsider an item which has been voted on at a previous meeting, assuming that the member voted with the prevailing side, if the matter of reconsideration of the item does not appear on the notice given for and agenda for the meeting at which the motion to reconsider is made.

You state that municipal ordinances often provide that a governing body conduct its business pursuant to Robert's Rules of Order which allow a motion to reconsider at the meeting following the meeting at which the item was initially voted upon.

The answer is yes; however the chief presiding officer or body should have discussion and formal action on the reconsideration motion set over to a later meeting at which notice required by section 19.84, Stats., can be given. In my opinion, the mere fact that a governmental body has adopted such a procedural notice, does not reasonably advise members of the public and media that motions can be made at any meeting to reconsider items voted upon at the last previous meeting. Section 19.83 provides that "[e]very meeting of a governmental body shall be preceded by public notice as provided in s. 19.84" Section 19.84(1), (2), (3) and (4) provides:

(1) Public notice of all meetings of a governmental body shall be given in the following manner:

(a) As required by any other statutes; and

(b) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area.

(2) Every public notice of a meeting of a governmental body shall set forth the time, date, place and subject matter of the meeting, including that intended for consideration at any contemplated closed session, in such form as is reasonably likely to apprise members of the public and the news media thereof.

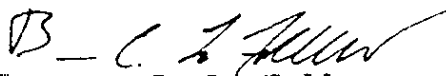
(3) Public notice of every meeting of a governmental body shall be given at least 24 hours prior to the commencement of such meeting unless for good cause such notice is impossible or impractical, in which case shorter notice may be given, but in no case may the notice be provided less than 2 hours in advance of the meeting.

(4) Separate public notice shall be given for each meeting of a governmental body at a time and date reasonably proximate to the time and date of the meeting.

See State ex rel. Schaeve v. Van Lare 125 Wis. 2d 40, 45, 370 N.W.2d 271 (Ct. App. 1985).

In 52 Op. Att'y Gen. 57 (1963), it was stated that action by a county board was valid even though it did not follow its own rules of procedure with respect to reconsideration of action previously taken. However, there must be compliance with specific statutory requirements with respect to certain matters such as bonding, and failure to comply with statutory requirements of open meetings law may result in action which is voidable and may subject the chief presiding officer who failed to give adequate public notice, and members who knowingly attended a meeting at which a violation occurred, to a forfeiture. Members who intend to move for reconsideration of matters acted upon at a previous meeting, can reduce delay by requesting the chief presiding officer to include adequate notice prior to the time public notice for the next succeeding meeting must be given.

Sincerely yours,


Bronson C. La Follette
Attorney General