



## Presiding Officers and Agendas

Maria Davis, Assistant Legal Counsel, League of Wisconsin Municipalities

Have you ever witnessed or participated in a group discussion where the conversation was disorganized, and no one seemed responsible for managing the discussion? Such meetings are usually inefficient and not much gets accomplished. For group discussion to be consistently effective and fair and democratic, someone must be responsible for administering it. That responsibility belongs to the presiding officer and begins with the agenda.

Although Wisconsin law does not require that governing bodies use an agenda, many governing bodies choose to use one. Agendas serve important practical purposes by providing a structure that facilitates efficient and effective meetings. While the presiding officer is responsible for administering the agenda, a common misperception is that the presiding officer has the authority to decide what matters are included on it. Although municipalities often delegate responsibility for preparing the agenda to the presiding officer, the presiding officer does not control the agenda and may not unilaterally decide which subjects the body should discuss. Such control would invalidly usurp the legislative power vested in a city council or village board as a whole. Similarly, the governing body cannot divest or surrender its legislative power to any single member, including a mayor, village president, or any other presiding officer.

Robert's Rules of Order, which many municipalities have adopted as their parliamentary authority, also indicates that the presiding officer does not unilaterally control the agenda. Robert's Rules of Order Newly Revised, 12th Edition (RONR) defines a procedure for members to introduce new items of business and states the presiding officer may not deprive members of the right to introduce legitimate business. RONR 41:27. Under RONR, body members may also use orders or orders of the day to add to an agenda. An order of the day "is a particular subject, question, or item of business that is set in advance to be taken up during a given session, day, or meeting, or at a given hour, provided that no business having precedence over it interferes." RONR 41:40. Orders of the day can be introduced whenever business of its class or new business is in order and nothing is pending, and can be used to bring a question before the body during the current meeting or a future meeting. RONR 41:44-45.

There are some important factors to note about RONR's rules on agendas. First, RONR was written with large bodies in mind. As a result, its rules can be cumbersome for governing bodies. Second, Wisconsin municipalities commonly use agendas to satisfy the public notice requirements of Wisconsin's Open Meetings Law. However, RONR does not contemplate the Open Meetings Law. In other

words, an action regarding the agenda may be permitted under RONR and simultaneously prohibited under the Open Meetings Law which requires advance notice of, among other things, subject matter. The procedures discussed above, while permitted under RONR, may violate Wisconsin's Open Meetings Law's notice requirements.

Nonetheless, RONR does provide helpful guidance for how the presiding officer, and the governing body, should use the agenda during a meeting. When an agenda is adopted, it is usually done at the outset of the meeting. RONR 41:61. Note, municipalities may choose to deviate from this and establish a different procedural rule. Additionally, to comply with the Open Meetings Law a body can only subtract from the agenda at the outset of the meeting and cannot add to it. Once the agenda has been set, the presiding officer must proceed through it in order unless the body votes to change the order of business by adopting a motion to suspend the rules by a two-thirds vote or by unanimous consent. RONR 41:37, 47:7.

Ultimately, a city council or village board presiding officer does exercise some control over the discussion of agenda items, so long as that control is democratic.

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