

# BOARD AND MANAGEMENT ROLES IN COUNTY GOVERNMENT

MAY 19, 2014



BARRON COUNTY  
*Wisconsin*



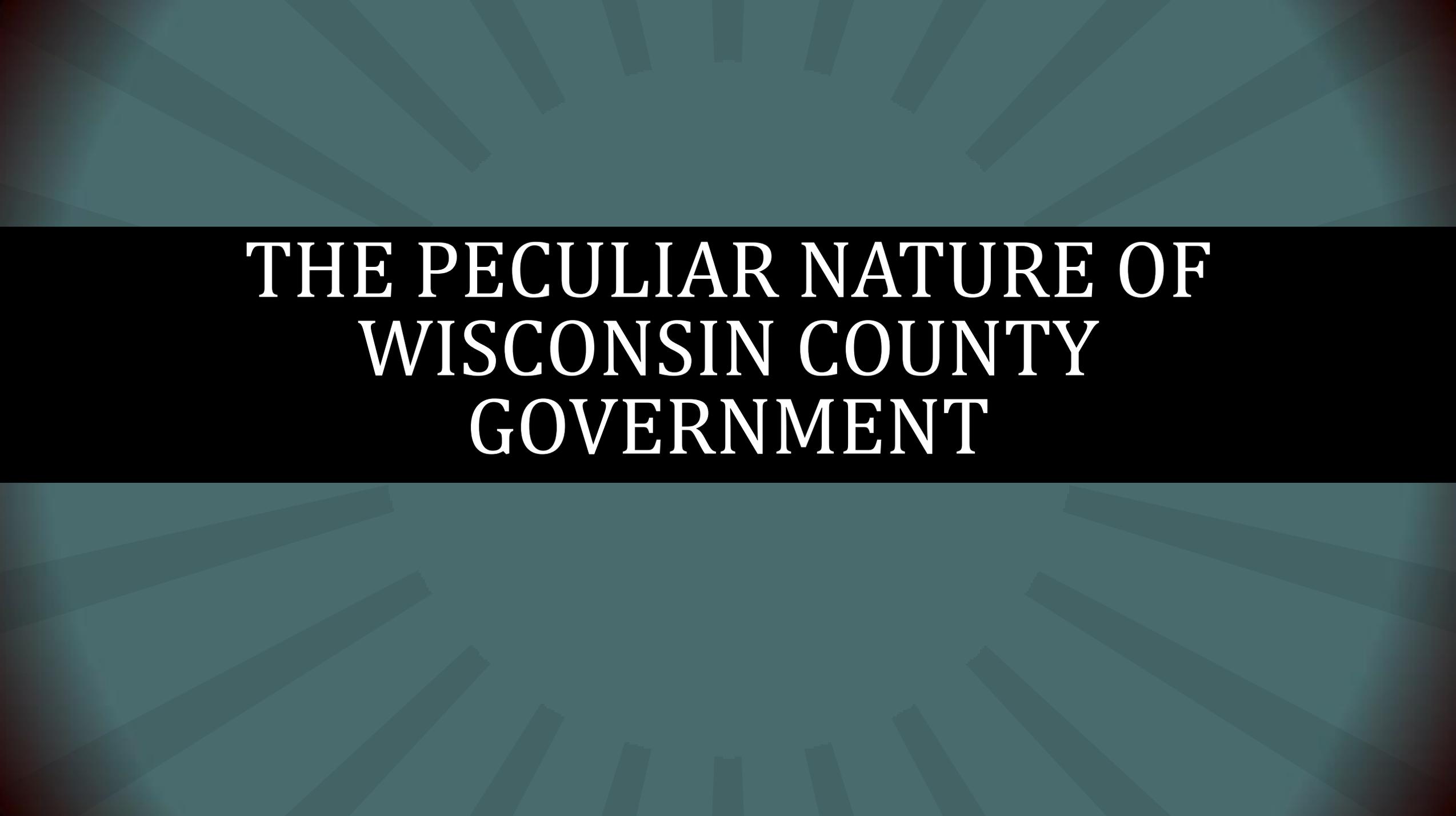
# WHY ARE WE DOING THIS?

- Wisconsin county government structure is unique
  - No public sector comparable
  - No private sector comparable
  - No nonprofit comparable
- Without clarification and understanding of roles, there is confusion and opportunity for discord
- What we do as counties is too important to not take our jobs incredibly seriously



# THE GOVERNANCE PROBLEM

- Review the county's 2014 budget:
  - How much is spent on personnel?
  - How much is spent on ensuring that the service delivery method is performing to the best of its abilities?
- Is governance rocket science?
  - No, but it certainly takes commitment
- Keep an open mind during this discussion and walk away with a commitment to ideas!



THE PECULIAR NATURE OF  
WISCONSIN COUNTY  
GOVERNMENT

# QUIZ

- Name the 3 branches of Federal Government
  - Legislative (House and Senate)
  - Executive (President)
  - Judicial (Federal Courts)
- Name the 3 branches of State Government
  - Legislative (Assembly and Senate)
  - Executive (Governor)
  - Judicial (State Courts)
- Name the 3 branches of City Government
  - Legislative (City Council)
  - Executive (Mayor)
  - Municipal Courts

# QUIZ

- Name the 3 branches of County Government
  - Legislative (County Board)
  - Executive?? (Executive, Administrator, Administrative Coordinator)
  - Judicial??

**WHY ARE COUNTIES DIFFERENT THAN EVERY OTHER LAYER OF GOVERNMENT??**

**DOES THAT MEAN THAT COUNTIES MUST OPERATE DIFFERENTLY THAN OTHER LAYERS??**

# COUNTY STRUCTURE

- County authority comes from Chapter 59
  - Municipal authority comes from the Constitution
- Counties are a body corporate that can sue and be sued
  - Does that mean that counties resemble private corporations in business structure?
- Powers are limited by state statute
  - Administrative Home Rule
- Counties are governed by a board of supervisors

# ADMINISTRATIVE HOME RULE

Sec. 59.03(1) - Every county may exercise any organizational or administrative power, subject only to the constitution and to any enactment of the legislature which is of statewide concern and which uniformly affects every county.



# FORMS OF GOVERNANCE

- **Traditional Governance:** The board approves staff action plans and then exercises oversight by monitoring all aspects of the operation. The board tries to keep up with and instruct management.
- **Policy Governance:** The board states what the organization must achieve and holds management accountable. The board must lead. Also the board describes what means will not be acceptable. The work of the board is focused on revising the desired results and means. Consequently its attention is given mainly to attending to the needs of the community served.

# FORMS OF COUNTY GOVERNMENT

## Three types

- County Executive
- County Administrator
- County Administrative Coordinator

# COUNTY EXECUTIVE (S. 59.17)

- Appoints and supervises department heads subject to board confirmation
- Appoints members to Boards and Commissions
- Submits an annual budget to the county board
- Has veto authority
  - may veto ordinances and resolutions
  - county board can override veto with 2/3 vote

# COUNTY ADMINISTRATOR (S. 59.18)

- Chief administrator of the county
- Responsible for coordinating all administrative and management functions not vested by law with other officers
- Appoints and supervises Department Heads
- Appoints members to boards and commissions
- Submits annual budget

# COUNTY ADMINISTRATOR (CONT'D)

- Sec. 59.18(6) - The county administrator shall be appointed solely on merit. In appointing the county administrator, the board shall give due regard to training, experience, administrative ability and general qualifications and fitness for performing the duties of the office, and no person shall be eligible to the office of county administrator, who is not by training, experience, ability and efficiency qualified and generally fit to perform the duties of such office. No weight or consideration shall be given by the board to residence, to nationality, or to political or religious affiliations.

# TO WHOM IS THE ADMINISTRATOR ACCOUNTABLE?

- Sec. 59.18(7) - The board may remove the county administrator at any time that the county administrator's conduct of the county administration becomes unsatisfactory, and engage a successor. The action of the board in removing the county administrator shall be final.

# ADMINISTRATIVE COORDINATOR (S. 59.19)

- Similar to county administrator but does not have appointment authority and coordinates rather than supervises
- Some counties meet the requirement by appointing an elected official

# COUNTY BOARD SUPERVISORS

- Supervisors serve primarily a legislative function
- The legislative function is largely limited to policy making, law making, budgetary approval and cooperative decision making
- No operational control resides with individual supervisors

# COUNTY BOARD FUNCTIONS

- Involve, represent and be accountable to the public
- Determine services to be provided
- Adopt budget – levy taxes
- Regulate within statutory authority
- In other words, ENACT POLICY

# COUNTY BOARD SUPERVISORS

- Supervisors authority is collective versus individual
- When appointed to a committee chair position, a supervisor has the authority to set the agenda for committee meetings, preside at meetings and make reports and recommendations on the committee's behalf
- So do “supervisors” actually “supervise” anything?

**Thank you legislature for creating confusion with the name!**

# COUNTY BOARD CHAIR

- Presides over meetings of the county board of supervisors
- Commonly acts as a spokesperson for the county board and for the county
- Provides guidance and direction on moving issues through the board
- Typically appoints committee members subject to board confirmation

# BOARD SETS POLICY

## Plans

Comprehensive, capital improvement, parks, farmland preservation, transportation

## Budgets

Most important document – determines what services are provided, how funded and level of funding

# BOARD SETS POLICY

## Ordinances

- An ordinance is a local law prescribing rules of conduct
- Enforced by officials of the governmental body
- Permanent part of governmental code

# BOARD SETS POLICY

## Resolutions

- Are usually less permanent and deal with matters that are temporary in character
- Often used to grant special privileges, express opinions or communicate with other governmental bodies

# BOARD ROLES & RESPONSIBILITIES

## County Board

- Has overall budget authority
- Relationship to county offices and departments must be consistent with statutes and constitution
- Role is that of “visionary”

# BOARD ROLES & RESPONSIBILITIES

- County board supervisors and department head/staff have vastly different responsibilities
- Board supervisors serve primarily a legislative role
- Department heads and staff serve in an operational and advisory role

# AN ALTERNATIVE – THE COMMISSION FORM OF GOVERNMENT

- Common in Western States as well as Illinois
- Usually 3, 5 or 7 members
- Well paid, with their own offices and staff
- Have absolute authority over operational aspects
- Incredibly inefficient – detracts from legislative and policy role
- Wisconsin does not allow for the commission form of county government

# STANDING COMMITTEE FUNCTIONS

- Policy oversight for departments, offices and other entities
- Monitor performance
- Review and make budget recommendations
- Draft ordinances and resolutions
- In other words, assist in POLICY DEVELOPMENT

# STAFF ROLES AND RESPONSIBILITIES

- Have an obligation to carry out duties in a manner consistent with the policy direction of the board
- Make recommendations and give professional advice
- Do not make policy other than internal as authorized

# STAFF ROLES AND RESPONSIBILITIES

- Answer questions and present reports during meetings to enable elected officials to make informed decisions
- Offer alternatives and recommendations as needed

# POLICY VS. ADMINISTRATION

- Policy (Board) = “What” and “Why”
- Administrative/Operations (Staff) = “Where,” “When” and “How”

# POLICY VS. ADMIN/OPS

## Policy

- “What” – Will the county establish a hiking trail system?
- “Why” – Will the system benefit the county?

## Admin/Ops

- “How” – Who will build and maintain the system?
- “When” – What is the timeframe for implementation?
- “Where” - Where will the system need to be maintained?

The dividing lines blur when implementing a plan, but once the plan is complete, the “hand off” occurs

# CHAIN OF COMMAND

- When issues are raised before County Board members, they should be referred to the appropriate source for handling.
- County Board members should avoid engaging in individual initiatives to investigate or address issues unless authorized to do so by committees or the county board.
  - Following an appropriate chain of command will ensure that issues are addressed in an open and deliberate manner that is fair to all involved.
  - Chain of command can be codified in an Administrative Manual.
  - Each and every county board member ought to have the best rolodex in the county.

# HOW OUR COURTS VIEW THE DISTINCTION BETWEEN POLICY AND ADMINISTRATION

Court cites to AG Opinion and dictionary:

The county board's function is primarily policy making and legislative, while the county executive functions as an administrator and manager. *See, e.g.,* 80 Op. Atty Gen. 49 (1991). Policy has been defined as “a high-level overall plan embracing the general goals and acceptable procedures esp. of a governmental body.” *Webster's New Collegiate Dictionary* 890 (1977).

*Schuetz v. Van De Hey*, 205 Wis.2d 475 (Ct. App. 1996).

# HOW OUR COURTS VIEW THE DISTINCTION BETWEEN POLICY AND ADMINISTRATION (CONT.)

Court cites to leading treatise:

“Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them, or appoint the agents charged with the duty of such enforcement.” *See* 2A MCQUILLIN, MUNICIPAL CORPORATIONS § 10.06 at 311 (3d ed. 1996). “The crucial test for determining what is legislative and what is administrative has been said to be whether the ordinance is one making a new law, or one executing a law already in existence.” *Id.*

*Schuetz v. Van De Hey*, 205 Wis.2d 475 (Ct. App. 1996).

# STAFF VS. BOARD

## Staff

Education

Experience

Background checked

Bonded

Professionally current

Professional associations

## Board

Elected by people

Local connection

# WORKING TOGETHER AS A GOAL

- Between Board Members and the Administrative Team
  - Know your job and try not to interfere with that of the administration.
  - Devote the time needed to do a good job. Read the background materials the administration prepares.
  - Admit what you don't know.
  - Do not jump to conclusions; instead, hear and weigh all the facts.

# WORKING TOGETHER AS A GOAL

- Between Board Members and the Administrative Team (cont.)
  - Keep your mind open to change.
  - Understand that the administrator is practicing a career - a highly complex one for which he has prepared with formal training and, in most cases, years of progressive experience.
  - Don't become a complaint department. Communicate with the staff through the administration as much as possible.

# WORKING TOGETHER AS A GOAL

- Between Board Members and the Administrative Team (cont.)
  - Don't make promises outside board meetings, not only for legal reasons, but also out of respect for the ethics of the situation and regard for the other board members, the administration and employees.
  - Listen to what your constitutional officers and employees have to offer and let them know you are listening.

# WORKING TOGETHER AS A GOAL

- Between Board Members and the Administrative Team (cont.)
  - If someone complains to you about a member of the administration, listen but do not agree. Being supportive of the administration shows that you have confidence in yourself and in the county management team. If the complaint is serious, ask the person to put it in writing and ask the board as a whole to analyze it in light of the appropriate committee structure.

# WORKING TOGETHER AS A GOAL

- Between Board Members and the Administrative Team (cont.)
  - If you have to criticize any county employee, do so constructively. Criticize the work rather than the individual.
  - Do not surprise the administration at a board meeting with resolutions, problems and issues without their prior knowledge. If you "spring" something at a meeting, the administration probably will not have the necessary data at hand to allow full and complete discussion of the issue. Incomplete data and discussion lead to unwise decisions.

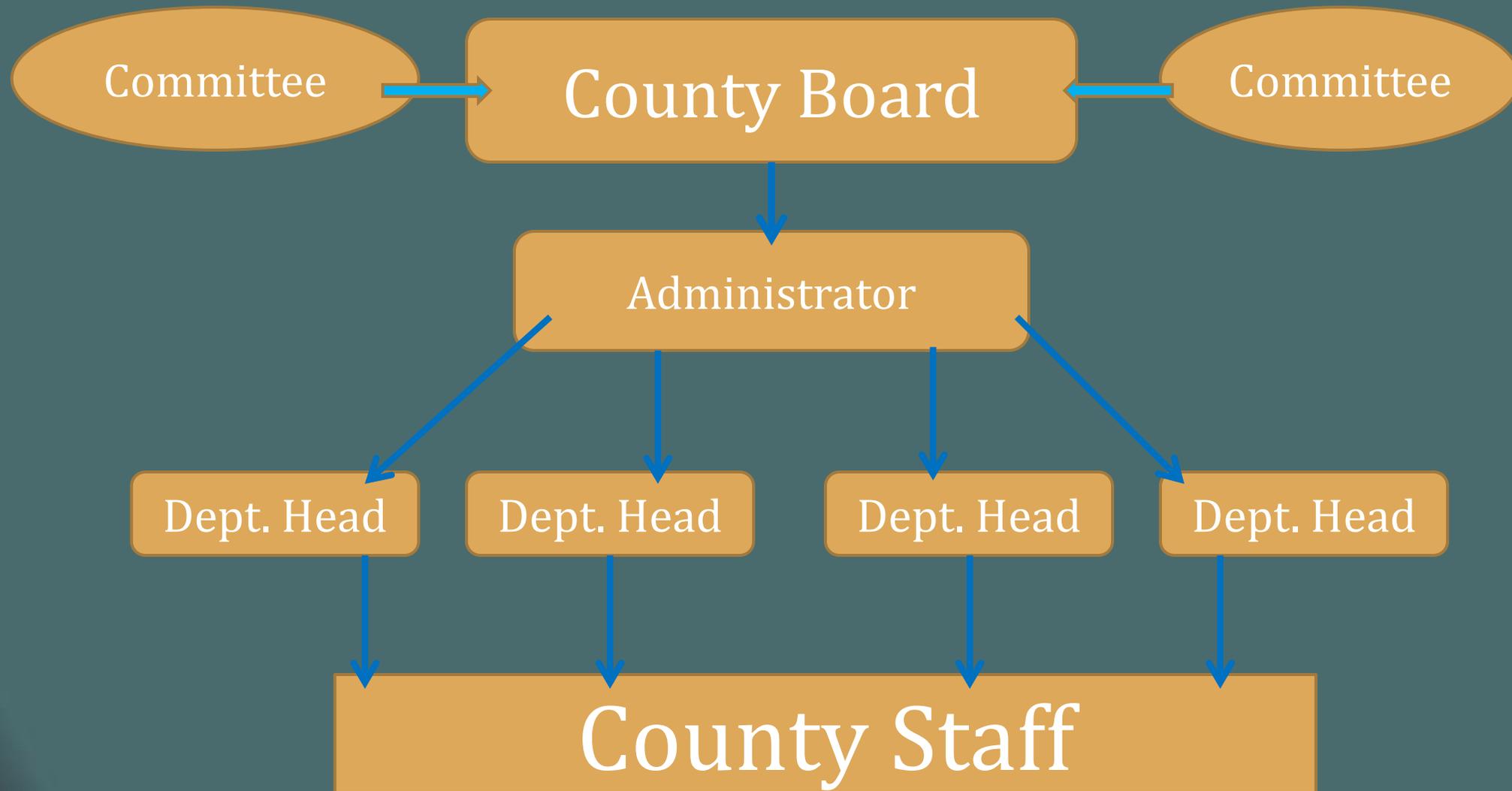
# WORKING TOGETHER AS A GOAL (CONT.)

- The Board fulfills its policy-making function only if it can rely on administration and staff to carry out policy.
  - DO NOT forget that administration and staff must be accountable to the Board.

# WHAT, IF ANYTHING, CAN BE LEARNED FROM PRIVATE CORPORATIONS?

- Who are the shareholders in county government?
  - Taxpayers/Citizens/Residents
  - Employees
  - State
- Who is the Board of Directors in county government?
  - County Board
- Who is the CEO in county government?
  - County Executive, Administrator, Administrative Coordinator

# WISCONSIN COUNTY ORGANIZATIONAL CHART (FOR COUNTIES WITHOUT EXEC)



# WHERE DO CONSTITUTIONAL OFFICERS FALL ON THE CHART??

Clerk of  
Courts

Treasurer

Sheriff

Register of  
Deeds

Clerk

# CONSTITUTIONAL OFFICERS

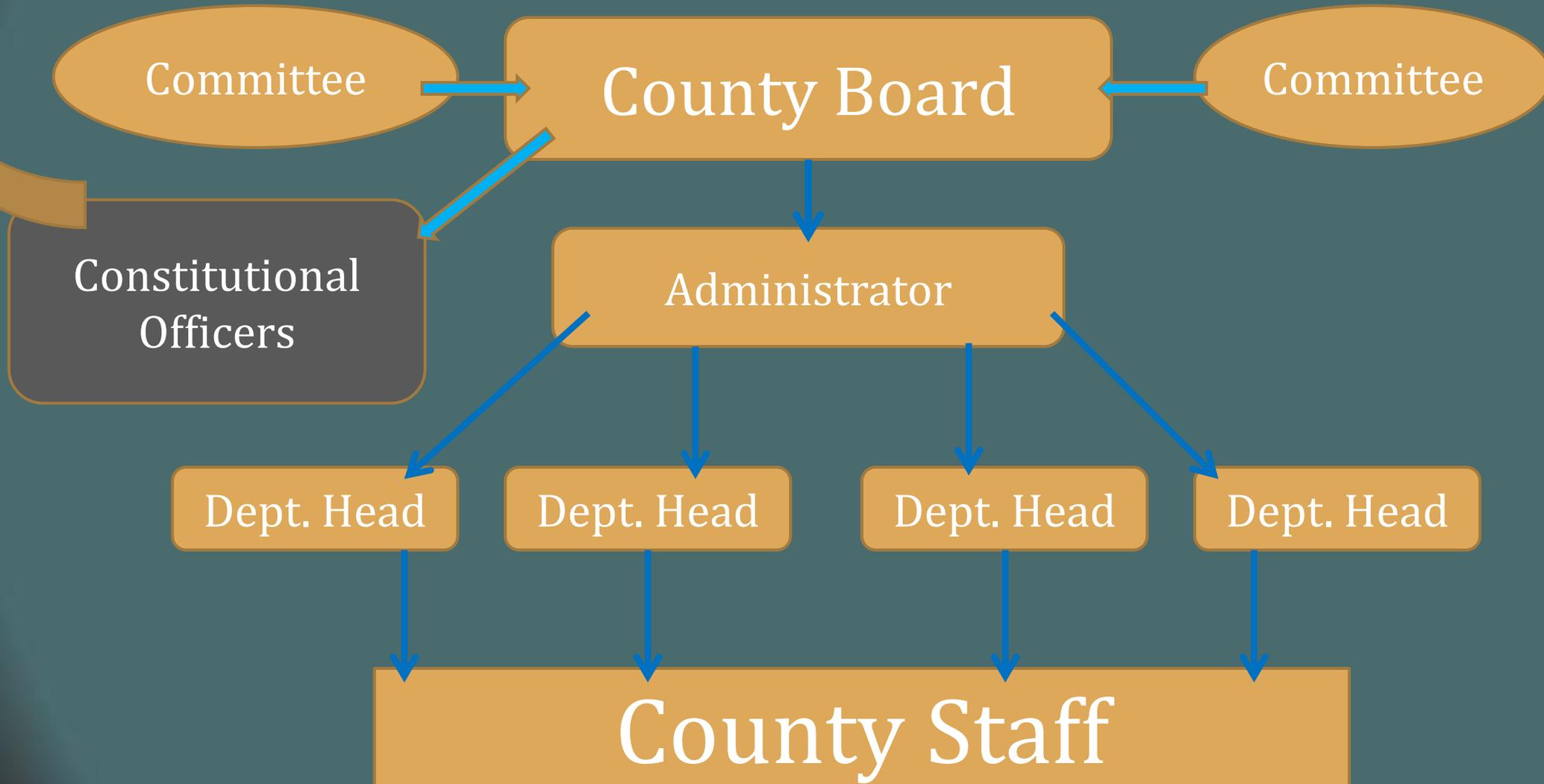
- Article VI, s. 4 and Article VII, s. 12 of the Wisconsin Constitution provides for the election and appointment of county officers.
- Constitutional Officers
  - Coroner
  - Register of Deeds
  - District Attorney
  - Sheriff
  - Clerk of Court
  - County Clerk
  - Surveyor
  - Treasurer

# DUTIES OF COUNTY OFFICERS

- Since the constitution is almost totally silent on the duties, powers or obligations of these offices, how do we determine whether, when, and how County officers can be limited in the exercise of their duties?
- Look to statutory duties and the protection given to them by our courts.
- Look to historical constitutional duties as defined by our courts.



# THE CONSTITUTIONAL OFFICER "DUAL PERSONA"



# POLICY GOVERNANCE OVERVIEW

# WHAT IS THE BOARD'S PURPOSE

In the Carver policy-making model, a board's purpose is as follows:

1. The board job is;
2. On behalf of some ownership;
3. To see to it that the organization;
4. Achieves what it should; and
5. Avoids what is unacceptable.

# WHAT CAN GO WRONG?

- Time spent on the trivial
- Reading reams of documents
- Long-running meetings that accomplish little
- Committees that are window dressing for what staff want to do
- Meddling in administration
- Staff in control of board agendas
- Reactivity vs. Proactivity
- Executive committee as de facto Board
- Confusing about what is going on
- Rubber stamping or Meddling
- No incisive way to evaluate the Executive

# BROAD ASSESSMENT

- “Most of what the majority of boards do either does not need to be done or is a waste of time when done by the Board. Conversely, most of what boards need to do for strategic leadership is not done.”

# THE OVERRIDING THEME

- Constant and consistent reference to Mission, Guiding Principles and Value Statements.
  - Where is your county when it comes to strategic planning?
  - How much time is spent on strategy vs other matters?

# ADDITIONAL RESOURCES

- John Carver's "Boards That Make a Difference"



# WHERE TO START

1. Job Descriptions – what does it mean to be a member of the Barron County Board?
2. Policies for interactions with each other – board deliberations, conduct outside of meetings, committee responsibilities
3. Policies for reporting – giving staff the direction
4. EVALUATIONS – if the most important thing a Board can do is evaluate the head of staff, this ought to be given the utmost attention

# RUNNING EFFECTIVE MEETINGS

J. Michael Blaska

# SOURCES OF PROCEDURAL RULES

- State Statues
- Local Rules
- Robert's Rules of Order

# OBJECT OF RULES OF ORDER

- It is unwise for an assembly or society to function w/o formally adopted rules of order
- For many organizations that manual is Robert's Rules of Order, Newly Revised 11<sup>th</sup> Edition





# RULES OF DECORUM

# AVOID USE OF MEMBER'S NAMES

- Presiding officer should not be referred to by name
- Presiding officer speaks of himself in the third person
- Avoid mentioning another's name when the person can be described in another way

# WHEN TO SPEAK

- Member never speaks while seated
- Member does not speak w/o first having risen, addressed the chair & obtained the floor
- Member has not obtained the floor until recognized by the chair
- Stand, raise hand, get chair's attention, press a button

# ADDRESS THE CHAIR

- Address all remarks through the chair – not the body, gallery or TV cameras
- Members can not address one another directly
- Direct questions to other supervisors through the chair

# DUTIES OF THE CHAIR

- All persons at a meeting have an obligation to obey the presiding officer
- Members using parliamentary forms for obstructive purposes should not be recognized or ruled out of order
- Enforce the rules relating to debate, order & decorum
- Remind members to confine remarks to the merits of the question

# DUTIES OF THE CHAIR

- Announces issues & keeps members on track
- Restates motion to place before the body & for clarity
- Recognizes members
- Asks for votes on each side & announces outcome
- Responds to requests & rules on points of order

# DEBATE ON THE QUESTION

- Members remarks must be germane to the question before the assembly
- Speakers must address their remarks to the chair, maintain a courteous tone, avoid injecting a personal tone into the debate
- Member has a right to speak twice in the same question
- Can speak no longer than 10 minutes in total

# CHAIR SPEAKING IN DEBATE

- Presiding officer should relinquish the chair if entering the discussion
- Officer should not return until the pending question is disposed of
- Exception with small boards and committees

# BRINGING BUSINESS BEFORE ASSEMBLY

- Business is brought by a motion by a member
- A motion is a formal proposal to take action
- Basic form of a motion, the only one that brings business before the assembly, is the main motion
- Many other parliamentary motions but none of those bring business before the assembly

# MAKING A MOTION

- Member must obtain the floor when no other question is pending & when business of the kind represented by the motion is in order
- Member must obtain the floor before making a motion or speaking in debate
- Motion is not before the body until stated by the chair

# MAKING A MOTION

- Motion can be prefaced by a few words of explanation
- Chair may assist member in framing the motion
- Maker of the motion may not withdraw motion once stated by the chair, it is the property of the body

# SPEAKING TO THE MOTION

- Discussion of any question is permitted only with a reference to a pending question
- Until a matter is brought before the assembly in the form of a motion it cannot be debated
- General rule against discussion w/o a motion is one of parliamentary procedure's most powerful tools for keeping business on track

# SPEAKING TO THE MOTION

- Presiding officer must never interrupt because he knows more about the matter than the speaker
- Maker of the motion may vote against it but he is not allowed to speak against his own motion
- Must avoid personalities & under no circumstances question the motives of another member

# PRECEDENCE IN SPEAKING

- Member who makes motion is entitled to be recognized
- No one is entitled to the floor a second time if member who has not spoken desires the floor
- No member can speak more than twice
- No more than 10 minutes in total
- Member can not yield unused time

# REFRAIN FROM DISTURBING THE ASSEMBLY

During debate no member should be permitted to disturb the assembly by whispering, walking across the floor, or in any other way – key words are “disturbing the assembly”

# READING FROM REPORTS

- Member has no right to read from or have the secretary read from any paper or book as part of his speech w/o permission of the assembly
- Members are permitted to read short, pertinent, printed extracts in debate as long as they do not abuse the privilege

# ASSIGNING THE FLOOR

- Member who rose & addressed the chair first, after the floor was yielded, is entitled to be recognized
- Exceptions to make, those who have not spoken and opposing opinions (should alternate if possible)
- A member can not establish prior claim to the floor by rising before it has been yielded

# COMMITTEE OF THE WHOLE

- Enables full assembly to give detailed consideration to a matter under conditions of freedom similar to a committee
- Speak as often as you can get the floor
- Votes are not final, only recommendations
- Can not adjourn as a committee
- Use for general discussion
- More common in smaller bodies-city councils

# CONTENT OF MINUTES

- They should contain mainly a record of what was done at a meeting and not what was said by members
- Kind of meeting; name of society or assembly; date, time and place; minutes of previous meeting – read or approved; all main motions



# MOTIONS AND MISCONCEPTIONS

# MOTION TO LAY ON THE TABLE

- Temporarily sets aside the matter w/intent to take up later in the meeting
- Commonly misused in place of Postpone Indefinitely or Postpone to a Time Certain
- Adopting halts consideration w/o debate
- Such action violates the rights of the minority and individual members
- Is out of order if no other urgent matter

# MOTION TO POSTPONE

- Motion by which pending action can be delayed
- Must be to a time specific
  - Definite day, meeting, hour or until after a certain event
- Motion to just postpone is out of order

# MOTION TO POSTPONE INDEFINITELY

- Motion used when the body declines to take a position
- Adoption kills the motion
- Avoids a direct vote on the question
- Useful in disposing of a badly chosen main motion that cannot be either adopted or rejected w/o undesirable consequences

# MOVING THE PREVIOUS QUESTION

- Motion used to bring the assembly to an immediate vote
- Requires 2/3 vote
- Often mistaken for a “Call for the Question”
  - No one person can close debate
  - Not proper to shut off debate against the will of even one member who wishes to speak & has not exhausted his right to debate

# POINT OF ORDER

- Member states when he feels rules of the assembly are being violated
- Takes precedence over pending question
- In order when another has the floor
- Does not require a second
- Is not debatable
- Ruled upon by the chair

# APPEALING THE RULING OF THE CHAIR

- Any two members have the right to appeal from the ruling of the presiding officer – one makes the Appeal the other seconds
- The question is taken from the chair and vested in the assembly
- No member is allowed to speak more than once except the presiding officer who is not limited and need not leave the chair

# WE HAVE TO STOP MEETING THIS WAY



- Ukrainian Parliament-April 26, 2010  
Source: nytimes.com “Ukraine Passes Deal Under Hail of Eggs”

# WISCONSIN COUNTIES ASSOCIATION

J. Michael Blaska

Chief of Staff

22 E. Mifflin St., Suite 900

Madison, WI 53703

608-663-7188



Source: Robert's Rules of Order, Newly Revised 11<sup>th</sup> Edition