

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **Tuesday, May 8, 2018** immediately following the City Council meeting which begins at **6:15** p.m. in the Ashland City Hall Council Chambers.

The following items will be considered:

1. Roll Call
2. Council President's Report
3. City Administrator's Report
4. Approval of the Agenda
5. Discussion and Possible Action of Chapter 28, Ashland City Ordinances, Duties and Responsibilities of City Administrator, to Ratify Chapter 28 (*Ortman*)
6. Adjournment

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AGENDA BILL

Ref: 095

COMMITTEE AGENDA: 5 (05-08-2018)
COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action of Chapter 28, Ashland City Ordinances, Duties and Responsibilities of City Administrator, to Ratify Chapter 28

RECOMMENDATIONS: Ratify Chapter 28, Ashland City Ordinances

DEPARTMENT OF ORIGIN: Council

DATE SUBMITTED: May 8, 2018

CLEARANCES: Council President

EXHIBITS:
A-Chapter 28, Ashland City Ordinances
B- Wis. Stats. 62.09(8) Mayor
C- Wis. Stats. 62.11 Common Council
D-Background of the Ashland CAO Position

EXPENDITURES REQUIRED: NA

AMOUNT BUDGETED: NA

APPROPRIATION REQUIRED: NA

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: NA

SUMMARY STATEMENT:

At the March 27, 2018, City Council meeting, Kinney moved, Mettelle seconded a motion to approve direction of the recruitment process to fill the City Administrator position to take place in-house by the Human Resources Director. The motion carried 7-3 by voice vote; opposed were Williamson, Pufall and Ketring.

Further, Ketring moved, Williamson seconded a motion to review and discuss Chapter 28, Ashland City Ordinances, in reference to the duties and responsibilities of the City Administrator prior to the advertising and hiring of a City Administrator. Doersch offered an amendment to complete the review of Chapter 28 within one meeting. Pufall seconded, Ketring did not accept the amendment. The motion failed 1-9 by voice vote. The motion as made by Ketring carried 9-1 by voice vote; Doersch opposed.

The Council needs to decide whether Chapter 28, Ashland City Ordinances, Duties and Responsibilities of City Administrator, should be amended at this time. The Ordinance was originally adopted in 1994 when the first City Administrator was hired and has been amended since that time to

reflect the real life complex realities of a modern city government, requiring frequent judgment calls on the nuts and bolts management of the daily business of providing city services to residents.

The concern of the previous Council regarding the job description for the City Administrator appears to revolve around defining the chain of command in reference to day to day activities of city government. By state statute, the Mayor is the Chief Executive Officer for the City and has a statutory duty to “take care that city ordinances and state laws are observed and enforced and that all city officers and employees discharge their duties.” Wis. Stats. 62.09(8)(a). The City Administrator position was created to address the complexity and professionalism required for the nuts and bolts daily management of the city and, therefore, reports to the Mayor.

Alderpersons are the individual members of the Common Council. Alderpersons in Ashland are elected from 11 Wards. The Common Council is made up of Alderpersons and the Mayor. In contrast to other city officers, the statutes do not provide a list of duties for Alderpersons. Copies of the related state statutes are included for your review and should assist in understanding the duties and responsibilities of the Mayor and the Council.

Operation of any organization depends on an effective chain of command. The ultimate decision concerning policy in the City of Ashland rests with the City Council and Mayor. Issues or questions that arise in the day to day operations of the City or any aspect of an employee’s job, opinions or suggestions must be directed through the chain of command for timeliness and orderliness reasons.

Recommendation: The previous City of Ashland Council has voted to fill the Administrator vacancy without the assistance of an outside recruiter. The City’s current Mayor and Human Resources Director recommend that recruiting for the current vacancy of the Administrator’s position should commence immediately using the existing Chapter 28 as a job description and the task be undertaken in-house as previously directed.

At the April 17, 2018 City Council meeting, Mettillie moved, Ullman seconded a motion to approve the Human Resources Director to move ahead with the search for a new City Administrator using the current Chapter 28, Ashland City Ordinance. The motion carried 9-2 by voice vote.

Ortman moved, Ketring seconded a motion to set aside a specific meeting time to review and discuss Chapter 28. Ullman offered a friendly amendment for the item to be the sole item for discussion at the next Committee of the Whole meeting, May 8, 2018. This amendment was accepted by both Ortman and Ketring. The motion carried unanimously by voice vote.

CHAPTER 28. DUTIES AND RESPONSIBILITIES OF CITY ADMINISTRATOR.

28.01. Office of the City Administrator. In order to provide the City of Ashland with a more efficient, effective, and responsible government under a system of a mayor and common council (hereinafter referred to as "council") at a time when city government is becoming increasingly complex, there is hereby created the Office of City Administrator for the City of Ashland (hereinafter referred to as "administrator").

28.02. Appointment, Term of Office and Removal. The administrator shall be appointed on the basis of merit with due regard to training, experience, administrative ability and general fitness for the office, by a majority vote of the council. The administrator shall hold office for an indefinite term subject to removal at any time by a two-thirds vote of the council. This section, however, shall not preclude the council from establishing other employment terms and conditions not inconsistent with the provisions of this ordinance or the Municipal Code of the City of Ashland.

28.03. Functions and Duties. The administrator, subject to the limitations defined in resolutions and ordinances of the City of Ashland and Wisconsin State Statutes, shall be the chief administrative officer of the city, responsible only to the mayor and the council for the proper administration of the business affairs of the city, pursuant to the statutes of the State of Wisconsin, the ordinances of the City of Ashland, and the resolutions and directives of the council. The administrator shall be responsible to and be under the supervision of the mayor on a day-to-day basis. Any dispute between the mayor and administrator shall be resolved by the decision of the council which resolution shall be final and binding. The powers and duties of the administrator are set forth in sections 28.04 through 28.07.

28.04. General Duties.

(a) Implementation. Carry out directives of the mayor and council which require administrative implementation, reporting promptly to the mayor and council any difficulties encountered therein;

(b) Day-to-Day Operations. Be responsible for the administration of all day-to-day operations of the city government including the monitoring of all city ordinances, resolutions, council meeting minutes and state statutes;

(c) Strategic Plan. Annually after the spring general election, the Administrator and Council shall jointly develop a strategic plan outlining the goals and objectives to be accomplished by the resources of City government for the following budget year. The strategic plan, to be reviewed and adopted by the Council by May 15th annually, shall serve as guidance for the allocation of municipal resources during the following fiscal year. The strategic plan shall:

- (1) Take into account the City's planning documents of record;
- (2) Consider the results of the most recent surveys of community residents;
- (3) Consider the resources of the City available for implementation; and
- (4) Reflect on the capacity of staff to implement.

(d) Efficiency. Establish when necessary administrative procedures to increase the effectiveness and

efficiency of city government according to current practices in local government, not inconsistent with paragraph 3 above or directives of the mayor and council;

(e) Non-Voting Board Member. Serve as ex-officio nonvoting member of all boards, commissions and committees of the city, except as specified by the council or Wisconsin State Statutes;

(f) Keeping Informed. Keep informed concerning current federal, state, and county legislation and administrative rules affecting the city and submit appropriate reports and recommendations thereon to the council;

(g) Coordinate Funding. Coordinate initiatives to secure federal, state, county or private funds for local programs. Assist department heads and the council in obtaining these funds under the direction of the mayor and the council;

(h) Representation. Represent the city in matters involving legislative and intergovernmental affairs as authorized and directed as to that representation by the mayor and council;

(i) Public Information Officer. Act as public information officer for the city with the responsibility of assuring that the news media are kept informed about the operations of the city and that all open meeting rules and regulations are followed;

(j) Communication. Establish and maintain procedures to facilitate communications between citizens and city government to assure that complaints, grievances, recommendations and other matters receive prompt attention by the responsible official, and to assure that all such matters are expeditiously resolved;

(k) City Projects. Coordinate and ensure development of city projects such as the Waterfront Development Plan and Comprehensive Plan;

(l) Leadership. Contribute to and be a vital part of the leadership team that is charged with developing Ashland's future;

(m) Goals and Objectives. Promote the economic well-being and growth of the City of Ashland through public and private sector cooperation, coordinate the development and acceptance of city-wide goals and objectives. Ensure that achievement plans are created and successfully implemented for these goals and objectives;

(n) Promoting Economic Development. Work in conjunction with appropriate commercial, industrial and citizen representatives to define the role of the city in promoting the economic development well-being of Ashland.

28.05. Responsibilities to the City Council.

(a) Meetings. Attend all meetings of the council, assisting the mayor and the council as required in the performance of their duties;

(b) Agendas. In coordination with the mayor, the council, and the clerk, ensure that appropriate agendas are prepared for all meetings of the council, all council committees, and all other appropriate

committees and commissions of the city, together with such supporting material as may be required; with nothing herein being construed as to give the administrator authority to limit or in any way prevent matters from being considered by the council, or any of its committees and commissions;

(c) Ordinance and Resolution Preparation. Assist in the preparation of ordinances and resolutions as requested by the mayor or the council, or as needed;

(d) Reporting to Council. Keep the mayor and council regularly informed about the activities of the administrator's office by oral or written report at regular and special meetings of the council;

(e) Directives. In the event that action normally requiring council approval is necessary at a time when the council cannot meet, the administrator shall receive directives from the mayor

28.06. Personnel.

(a) Supervising. Be responsible for the administrative direction, supervision, and coordination of all employees of the city according to the established organization procedures;

(b) Department Heads. Recommend to the mayor the appointment, promotion, and when necessary for the good of the city, the suspension or termination of department heads;

(c) Personnel. In consultation with the appropriate department head, be responsible for the appointment, promotion, and when necessary for the good of the city, the suspension or termination of employees below the department head level;

(d) Evaluations. Coordinate with the personnel officer for the city to see that complete and current personnel records, including specific job descriptions, for all city employees are kept; evaluate the performance of department heads on a regular basis; assure that employees below the department head level are evaluated by their supervisor(s) on a regular basis; recommend salary and wage scales for city employees not covered by collective bargaining agreements; develop and enforce high standards of performance by city employees; assure that city employees have proper working conditions; work closely with department heads to promptly resolve personnel problems or grievances;

(e) Negotiations. Assist in labor contract negotiations and collective bargaining issues;

(f) Employee Training. Work closely with department heads to assure that employees receive adequate opportunities for training to maintain and improve their job-related knowledge and skills and act as the approving authority for requests by employees to attend conferences, meetings, training schools, etc., provided that funds have been budgeted for these activities.

28.07. Budgeting and Purchasing.

(a) Preparation of Budget. Be responsible for the preparation of the annual city budget, in accordance with guidelines as may be provided by the city council and the mayor and in coordination with department heads, and pursuant to state statutes, for review and approval by the mayor and the council;

(b) Administering Budget. Administer the budget as adopted by the council;

(c) Fiscal Reporting. Report regularly to the council on the current fiscal position of the city;

(d) Accounting System. Supervise the accounting system of the city and ensure that the system employs methods in accordance with current professional accounting practices;

(e) Purchasing. Serve as the purchasing agent for the city, supervising all purchasing and contracting for supplies and services, subject to the purchasing procedures established by the council and any limitation contained in the Wisconsin State Statutes;

28.08. Cooperation. All officials and employees of the city shall cooperate with and assist the administrator so that the city government shall function effectively and efficiently.

28.09. Severability. The provisions of this ordinance shall be deemed severable and it is expressly declared that the Council of the City of Ashland would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid; and if any provisions of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

ADOPTED: 28 (1313) 3/15/1994

AMENDMENTS: 28 (1627) 3/28/2006; 28 (1805) 4/16/2013; 28 (1829) 7/29/2014

Wisconsin State Statute 62.09(8)
Mayor

- (8) MAYOR.**
- (a)** The mayor shall be the chief executive officer. The mayor shall take care that city ordinances and state laws are observed and enforced and that all city officers and employees discharge their duties.
 - (b)** The mayor shall from time to time give the council such information and recommend such measures as the mayor may deem advantageous to the city. When present the mayor shall preside at the meetings of the council.
 - (c)** The mayor shall have the veto power as to all acts of the council, except such as to which it is expressly or by necessary implication otherwise provided. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, or upon failing to approve or disapprove within 5 days, which fact shall be certified thereon by the clerk. If the mayor disapproves the mayor's objections shall be filed with the clerk, who shall present them to the council at its next meeting. A two-thirds vote of all the members of the council shall then make the act effective notwithstanding the objections of the mayor.
 - (d)** Except in cities that have adopted s. 62.13 (6), the mayor shall be the head of the fire and police departments, and where there is no board of police and fire commissioners shall appoint all police officers, and the mayor may, in any city, appoint security personnel to serve without pay, and in case of riot or other emergency, appoint as many special police officers as may be necessary.
 - (e)** The council at its first meeting subsequent to the regular election and qualification of new members, shall after organization, choose from its members a president, who, in the absence of the mayor, shall preside at meetings of the council, and during the absence or inability of the mayor shall have the power and duties of the mayor, except that the president shall not have power to approve an act of the council which the mayor has disapproved by filing objections with the clerk. The president shall when so officiating be styled "Acting Mayor".

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Wisconsin State Statute 62.11
Common Council

62.11 Common council.

- (1) **HOW CONSTITUTED.** The mayor and alderpersons shall be the common council. The mayor shall not be counted in determining whether a quorum is present at a meeting, but may vote in case of a tie. When the mayor does vote in case of a tie the mayor's vote shall be counted in determining whether a sufficient number of the council has voted favorably or unfavorably on any measure.
- (2) **TIME OF MEETING.** The council shall meet at least once a month, and on the first Tuesday unless a different day be fixed by the council. More frequent regular meetings may be established by the council. The mayor may call a special meeting by notifying members in a manner likely to give each member notice of the meeting and providing the notice at least 6 hours before the meeting. Following a regular city election the new council shall first meet on the 3rd Tuesday of April.
- (3) **PROCEDURE.**
 - (a) The council shall be the judge of the election and qualification of its members, may compel their attendance, and may fine or expel for neglect of duty.
 - (b) Two-thirds of the members shall be a quorum, except that in cities having not more than 5 alderpersons a majority shall be a quorum. A less number may compel the attendance of absent members and adjourn. A majority of all the members shall be necessary to a confirmation. In case of a tie the mayor shall have a casting vote as in other cases.
 - (c) Meetings shall be open to the public; and the council may punish by fine members or other persons present for disorderly behavior.
 - (d) The ayes and noes may be required by any member. On confirmation and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the city or any fund thereof, the vote shall be by ayes and noes. All aye and nay votes shall be recorded in the journal.
 - (e) The council shall in all other respects determine the rules of its procedure.
 - (f) The style of all ordinances shall be: "The common council of the city of do ordain as follows".

Background of the Ashland CAO Position

The City has had at least six chief appointed officials in its history. The first CAO of the community was hired by the Council in 1948 when the City adopted the “Council – Manager” form of government. I understand that the City had at least two managers during that period, Jim O’Leary and Harlow Richardson. Unfortunately, the manager era ended in 1955 after a referendum to change the form of government back to the “mayor-council” form was approved. Ironically, very little is noted in the minutes about the city managers who worked for the City.

Since 1994 when the City adopted what has become commonly referred to as the “Weak Mayor – Administrator” form of government, four administrators have worked for the City. Three administrators were external hires and one, Brian Knapp, was promoted from within. Mike Screnock, the City’s Finance Director during the last year of the Tony Murphy reign, was offered the administrator position when Tony Murphy resigned. Screnock declined leading to the outside hiring of David Frasher.

The City had a very successful period during the tenure of Tony Murphy. Although many folks in town have varying opinions about his policies and community relationships, things got done with the team of Murphy as administrator and Lowell Miller as mayor. Accomplishments from the period include the expansion of the business park, creation of the enterprise center, retaining of Larson-Jewell as a community employer, and construction of the Bretting Center among many other initiatives. The City found attributes in Murphy that appear to have served the City well.

Although some may be disappointed with the brevity of stay of the City’s administrators, the length of stay in Ashland is about average according to statewide and national surveys. There are any number of reasons for an individual’s relatively short occupancy in the office. Some councils hire CAO’s as “hired guns” to essentially turn the organization upside down. When the comfort level and popularity of the person in the position declines because the CAO is either successful, or unsuccessful, in the mission the Council assigned, the manager/administrator will move on.

Some communities fill the position with the intent of acquiring a caretaker that will not disrupt the status quo. While such a situation may be satisfying for a period of time, most CAOs will become dissatisfied with the lack of challenge such assignments provide.

Some administrators/managers will use the position as a stepping stone to gain experience before moving to a community with more responsibility or a larger salary.

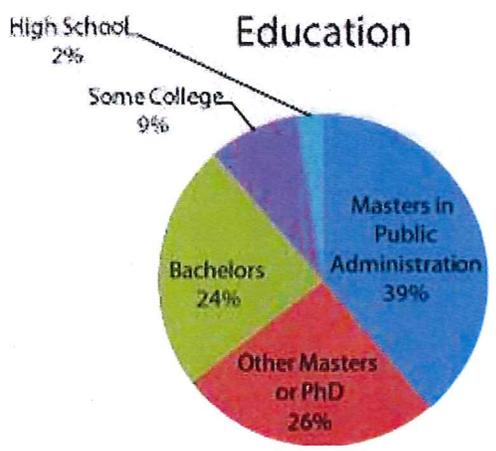
Some CAOs are just not good matches suggesting to one party or the other that the cord should be cut to let everyone start over.

According to a 2011 survey conducted by ICMA, city administrators/managers have an average tenure of 7.3 years in any given community. Although the longevity of managers is increasing nationally, the average stay of an administrator in Wisconsin has been about 7 years for most of the last two decades. Ashland’s experience has varied. The City’s first administrator in recent times, Tony Murphy, stayed at the post the longest – the average 7 years. The three administrators’ since then have stayed for fewer years as noted on the table below:

Ashland City Administrators/Managers			
Jim O’Leary	City Manager	1948 – 1955	Two managers over a period of 8 years
Harlow Richardson	City Manager		
Tony Murphy	City Administrator	1994 – 2001	7 years
David Frazier	City Administrator	2001 – 2006	5 years
Brian Knapp	City Administrator	2006 – 2009	3 years
Pete Mann	City Administrator	2009 – 2014	5 years
Mary Garness	City Administrator	2015-2018	3 years

According to 2012 ICMA surveys:

- Average time in current position: 7.3 years
- Average amount of government management experience: 20 years
- When City Managers are fired or feel pressure to resign, 36% of the time, it is because of a “personality conflict” with the Mayor.



(~2,000 of 8,856 municipalities and counties responding)