



Town of Mukwonago

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REVISED

Town of Mukwonago, Wisconsin
TOWN BOARD MEETING
NOTICE OF MEETING & AGENDA
WEDNESDAY, JULY 17, 2019

Time: **6:30 p.m.**

Place: **Town Hall, W320 S8315 Beulah Road, Mukwonago**

1. Call to Order & Pledge of Allegiance
2. Open Meeting Noticed
3. Roll Call
4. Announcement of Closed Session Pursuant to Wis. Stats. §19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility; regarding Administrator/Clerk-Treasurer
5. Public Comments (*The purpose of this section is to allow the non-elected general public the opportunity to address the Board on any subject of concern that is not the topic of a current or previous Public Hearing before the Town Board. If you wish to be heard, the Town Board asks that you begin by stating your name and address, speak for no more than three minutes and attempt to avoid duplication. The Board will only receive comments during Public Comment*)
6. Approval of Minutes of June 19, 2019.
7. New Business: Discussion and Possible Action on the following:
 - a. 2019 Tax Collection Agreement with Waukesha County; using Citizens Bank as bank lockbox for tax collection.
 - b. Cooperative Border Agreement between the Town of Mukwonago and the Town of Vernon
8. Reports/Committees/Commissions: Discussion and Possible Action on the following:

Finance/Personnel

 - a. **Update regarding application process for filling the position of Director of Parks and Recreation**
 - b. Review of Expenditures/Revenues
 - c. Monthly Bills

9. Protective Services – Fire Dept.
 - a. AIRF – IPAD AND WDA – Inspection App from donated and sold equipment funds
 - b. Authorize Fire Chief to work with the Town and Village Administrators to put together RFP for Study of the Mukwonago Fire Department
 - c. Fire and Ambulance Reports for June, 2019.
10. Public Works
 - a. Resolution Amending the General Fund in the amount of \$22,047 for the payment of installation for address signs.
11. Minutes from Village of Mukwonago
12. Closed Session

The Board may convene into Closed Session Pursuant to Wis. Stats. §19.85 (1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility; regarding Administrator/Clerk-Treasurer.
13. The Board may reconvene into open session pursuant to Wis. Stats. 19.85(2) for possible additional discussion and/or action concerning any matter discussed in closed session and/or any unfinished item remaining on the agenda.
14. Adjournment

NEXT TOWN BOARD MEETING: WEDNESDAY, AUGUST 21, 2019

It is possible that members and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any other governmental body except by the governing body noticed. Please note, upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through appropriate aids and services. For additional information or to request this service, contact Kathy Karalewitz, Administrator/Clerk-Treasurer at (262) 363-4555

TOWN OF MUKWONAGO
TOWN BOARD MEETING MINUTES
WEDNESDAY, JUNE 19, 2019

Chairman Topczewski called the meeting to order at 6:30 p.m. and the Pledge of Allegiance was recited.

Chairman Topczewski stated the meeting was noticed.

ROLL CALL: Chairman Topczewski; Supervisors Boucher, Clabault, Wrasman and Yerke were present. Also present: Kathy Karalewitz, Administrator/Clerk-Treasurer; John Macy, town attorney; Toby Monogue, Director of Parks and Recreation.

Chairman Topczewski stated the Town Board will not be going into closed session as stated on the agenda.

PUBLIC COMMENTS

There were no comments.

MINUTES OF MAY 15, 2019

Motion by Supervisor Boucher, second by Supervisor Yerke to approve the minutes of May 15, 2019. All ayes; motion carried.

RENEWAL OF CLASS B BEER AND CLASS B LIQUOR LICENSE FOR CASTAWAY ON PHANTOM

Motion BY Supervisor Boucher, second by Supervisor Wrasman to approve the Renewal of Class B Beer and Class B Liquor License for the Castaway on Phantom, W299S10545 Phantom Woods Rd; Sean Carroll, Agent. All ayes; motion carried.

RENEWAL OF CLASS B BEER AND CLASS B LIQUOR LICENSE FOR DAWN K. HUGHES, D/B/A TROLLEY PUB

Motion BY Supervisor Boucher, second by Supervisor Wrasman to approve the Renewal of Class B Beer and Class B Liquor License for Dawn K. Hughes, d/b/a Trolley Pub, W297S10794 Phantom Woods Rd. All ayes; motion carried.

Supervisor Clabault abstained from acting or voting on Renewal of licenses for Pieper Porch Winery and Vineyard.

Renewal of Class B Beer and Class B Wine Only License for Pieper Porch Winery & Vineyard

Motion by Supervisor Boucher, second by Supervisor Wrasman to approve the Renewal of Class B Beer and Class B Wine Only License for Pieper Porch Winery & Vineyard, S67W8435 River Road; Katherine Pieper, Agent. Supervisor Clabault abstained, the rest, four (4) in all voted "aye". Motion carried.

REPORTS/COMMITTEES/COMMISSIONS

FINANCE/PERSONNEL

Supervisor Yerke questioned the monies in operating for elections. Kathy Karalewitz explained there is maintenance to pay on the election equipment.

MONTHLY BILLS

Motion by Supervisor Boucher, second by Supervisor Yerke to pay the monthly bills. All ayes; motion carried.

PARKS AND RECREATION

PROCLAMATION RECOGNIZING JULY AS PARK AND RECREATION MONTH

Chairman Topczewski read the Proclamation. Motion by Supervisor Boucher, second by Supervisor Clabault to authorize the Chairman to sign the Proclamation. All ayes; motion carried.

PUBLIC WORKS

COMPLETION OF TURNAROUND AT THE END OF STONE RIDGE DR

Motion by Supervisor Boucher, second by Chairman Topczewski based on the recommendation of the superintendent of public works and recommendation of the public works committee, to proceed with soliciting bids for the maintenance work on the end of Stone Ridge Dr. with bids to be brought back to the board. All ayes; motion carried.

UPDATE REGARDING COUNTRY BLISS WATER LEVEL

Superintendent of Public Works stated there is no immediate flooding of the roadways at this time. He is monitoring it and ready to lay the pipe if needed.

MINUTES FROM THE VILLAGE OF MUKWONAGO

Supervisor Boucher stated it was Mark Penzkover's last official meeting as a Village Trustee in the Village of Mukwonago. He contacted him to wish him farewell.

DISCUSSION REGARDING PARKS AND RECREATION

Discussion was held regarding the process used for the filling of the job for Director of Parks and Recreation.

The Administrator and Supervisor Wrasman will determine through the pool of applicants who meets the criteria and will set up phone interviews with the applicants. The list of those being interviewed by phone will be presented to the board.

Once the phone interviews are complete, the board will be presented with another list of finalists who the board will meet and interview.

The board determined by unanimous consent the salary range to be \$54,000 to \$62,000 and the deadline to accept applications is July 12, 2019 at 3:30 p.m.

The Administrator to check with labor counsel regarding a probationary period for the position.

Motion by Supervisor Wrasman, second by Chairman Topczewski that the qualifications for the position is the applicant must have a Bachelor's or Master's degree and in parks, recreation, public administration or related field preferred and three (3) years of Park and Recreation Department supervisory and management experience required within such department, or if no degree, must have five (5) years of Parks and Recreation Department supervisory and management experience required within such department. All ayes; motion carried.

ADJOURNMENT

Motion by Supervisor Boucher, second by Supervisor Clabault to adjourn at 7:50 p.m. All ayes; motion carried.

Respectfully submitted,

Kathy Karalewitz
Administrator/Clerk-Treasurer

Not approved

66.02162 Incorporation of certain towns contiguous to 3rd class cities or villages. (1) **CONDITIONS.** A town board may initiate the procedure for incorporating its town as a village under this section by adopting a resolution providing for a referendum by the electors of the town on the question of whether the town should become a village if on the date of the adoption of the resolution any of the following is satisfied:

(a) All of the following conditions apply:

1. The most recent federal decennial census shows that the resident population of the town exceeds 6,300.

2. The town is contiguous to a 3rd class city.

3. The most recent data available from the department of revenue show that the equalized value for the town exceeds \$600,000,000.

4. In one of the 5 years before the year in which the town board adopts the resolution, the town's equalized value increased more than 7 percent, compared to the town's equalized value for the prior year.

5. The town board of the town is authorized to exercise village powers.

6. The town has entered into, and is bound by, at least 2 separate cooperative boundary agreements under s. 66.0307 with at least 2 municipalities.

7. The town has created at least one tax incremental financing district as authorized under s. 60.23 (32).

8. The town has established at least one town sanitary district under subch. IX of ch. 60.

(b) All of the following conditions apply:

1. The most recent federal decennial census shows that the resident population of the town exceeds 2,300.

2. The most recent data available from the department of revenue show that the equalized value for the town exceeds \$190,000,000.

3. The area of the town exceeds 40 square miles.

4. The town is contiguous to a village to which all of the following conditions apply:

a. The most recent federal decennial census shows that the resident population of the village is less than 300.

b. The area of the village is less than 2 square miles.

c. The aggregate net tax rate of the village, as determined by the department of revenue under s. 70.114 (3), is greater than 36 mills.

5. The village under subd. 4. and the town are located in a county for which the most recent federal decennial census shows that the resident population is less than 150,000.

(2) **REFERENDUM RESOLUTION.** The resolution of the town board required under sub. (1) shall do all of the following:

(a) Certify that the requirements under sub. (1) are satisfied.

(b) Contain a description of the territory to be incorporated sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the town clerk.

(c) Determine the numbers and boundaries of each ward of the proposed village, conforming to the requirements of s. 5.15 (1) and (2).

(d) Determine the date of the referendum, which may not be earlier than 6 weeks after the adoption of the resolution.

(3) **NOTICE OF REFERENDUM.** The town clerk shall publish the resolution adopted under sub. (1) in a newspaper published in the town. If no newspaper is published in the town, the town clerk shall publish the resolution in a newspaper designated in the resolution. The town clerk shall publish the resolution once a week for 4 successive weeks, the first publication to be not more than 4 weeks before the referendum.

(4) **VOTING PROCEDURE.** The referendum shall be conducted in the same manner as elections for town board supervisors. The question appearing on the ballot shall be: "Shall the town of

become a village?" Below the question shall appear 2 squares. To the left of one square shall appear the words "For a village," and to the left of the other square shall appear the words "Against a village." The inspectors shall make a return to the town clerk.

(5) **CERTIFICATE OF INCORPORATION.** If a majority of the votes are cast in favor of a village, the town clerk shall certify that fact to the secretary, together with 4 copies of a description of the legal boundaries of the town, and 4 copies of a plat of the town. The town clerk shall also send the secretary an incorporation fee of \$1,000. Upon receipt of the town clerk's certification, the incorporation fee, and other required documents, the secretary shall issue a certificate of incorporation and record the certificate in a book kept for that purpose. The secretary shall provide 2 copies of the description and plat to the department of transportation and one copy to the department of revenue. The town clerk shall also transmit a copy of the certification and the resolution under sub. (1) to the county clerk.

(6) **ACTION.** No action to contest the validity of an incorporation under this section on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the certificate of incorporation by the secretary. In any such action, the burden of proof as to all issues is upon the person bringing the action to show that the incorporation is not valid. An action contesting an incorporation shall be given preference in the circuit court.

(7) **VILLAGE POWERS.** A village incorporated under this section is a body corporate and politic, with the powers and privileges of a municipal corporation at common law and conferred by ch. 61.

(8) **EXISTING ORDINANCES.** Ordinances in force in the territory or any part of the territory, to the extent not inconsistent with this section or ch. 61, continue in force until altered or repealed.

(9) **EXISTING INTERGOVERNMENTAL AND COOPERATIVE BOUNDARY AGREEMENTS.** Intergovernmental cooperation agreements entered into under s. 66.0301 and cooperative boundary agreements approved under s. 66.0307, to which a town incorporating under this section is a party, that are still in effect on the effective date of the incorporation, shall continue in force until altered or repealed, to the extent allowed under the agreements. When incorporated under this section, a village shall be considered the town's successor with respect to such agreements.

(10) **INTERIM OFFICERS, FIRST VILLAGE ELECTION.** Section 66.0215 (8) and (9), as it applies to a town that is incorporated as a city under s. 66.0215, applies to a town that is incorporated as a village under this section.

(11) **SUNSET.** This section does not apply after June 30, 2020.
History: 2015 a. 55.

66.0217 Annexation initiated by electors and property owners. (1) **DEFINITIONS.** In this section, unless the context clearly requires otherwise:

(a) "Assessed value" means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(b) "Department" means the department of administration.

(c) "Legal description" means a complete description of land to be annexed without internal references to any other document, and shall be described in one of the following ways:

1. By metes and bounds commencing at a monument at the section or quarter section corner or at the end of a boundary line of a recorded private claim or federal reservation in which the annexed land is located and in one of the following ways:

a. By government lot.

b. By recorded private claim.

c. By quarter section, section, township and range.

2. If the land is located in a recorded and filed subdivision or in an area subject to a certified survey map, by reference as described in s. 236.28 or s. 236.34 (3).

entered into under this section, must be commenced in circuit court within 30 days of the commission adopting a resolution authorizing the issuance of the bond or the execution of the contract.

(d) Bonds issued under this section shall not be invalid for any irregularity or defect in the proceedings for their sale or issuance. The bonds shall contain a statement that they have been authorized and issued pursuant to the laws of this state. The statement shall be conclusive evidence of the validity of the bonds.

(12) STATE PLEDGE. The state pledges to and agrees with the bondholders, and persons that enter into contracts with a commission under this section, that the state will not limit, impair, or alter the rights and powers vested in a commission by this section, including the rights and powers under sub. (4), before the commission has met and discharged the bonds, and any interest due on the bonds, and has fully performed its contracts, unless adequate provision is made by law for the protection of the bondholders or those entering into contracts with a commission. The commission may include this pledge in a contract with bondholders.

History: 2009 a. 205; 2011 a. 32, 239; 2013 a. 20.

66.0305 Political subdivision revenue sharing.

(1) DEFINITION. In this section, “political subdivision” means a city, village, town, or county.

(2) POLITICAL SUBDIVISION REVENUE SHARING AGREEMENT. Subject to the requirements of this section, any 2 or more political subdivisions may, by a majority vote of a quorum of their governing bodies, enter into an agreement to share all or a specified part of revenues derived from taxes and special charges, as defined in s. 74.01 (4). One or more political subdivisions may enter into agreements under this section with federally recognized American Indian tribes or bands.

(3) PUBLIC HEARING. At least 30 days before entering into an agreement under sub. (2), a political subdivision shall hold a public hearing on the proposed agreement. Notice of the hearing shall be published as a class 3 notice under ch. 985.

(4) SPECIFICATIONS. (a) An agreement entered into under sub. (2) shall meet all of the following conditions:

1. The term of the agreement shall be for at least 10 years.
2. The boundaries of the area within which the revenues are to be shared in the agreement shall be specified.
3. The formula or other means of determining the amount of revenues to be shared under the agreement shall be specified.
4. The date upon which revenues agreed to be shared under the agreement shall be paid to the appropriate political subdivision shall be specified.
5. The method by which the agreement may be invalidated after the expiration of the minimum period specified in par. (a) 1. shall be specified.

(b) An agreement entered into under sub. (2) may address any other appropriate matters, including any agreements with respect to services or agreements with respect to municipal boundaries under s. 66.0225, 66.0301 (6), or 66.0307.

(5) CONTIGUOUS BOUNDARIES. No political subdivision may enter into an agreement under sub. (2) with one or more political subdivisions unless the political subdivision is contiguous to at least one other political subdivision that enters into the agreement.

(6) ADVISORY REFERENDUM. (a) Within 30 days after the hearing under sub. (3), the governing body of a participating political subdivision may adopt a resolution calling for an advisory referendum on the agreement. An advisory referendum shall be held if, within 30 days after the hearing under sub. (3), a petition, signed by a number of qualified electors equal to at least 10 percent of the votes cast for governor in the political subdivision at the last gubernatorial election, is filed with the clerk of a participating political subdivision, requesting an advisory referendum on the revenue sharing plan. The petition shall conform to the

requirements of s. 8.40 and shall be filed as provided in s. 8.37. If an advisory referendum is held, the political subdivision’s governing body may not vote to approve the agreement under sub. (2) until the report under par. (d) is filed.

(b) The advisory referendum shall be held not less than 70 days nor more than 100 days after adoption of the resolution under par. (a) calling for the referendum or not less than 70 days nor more than 100 days after receipt of the petition under par. (a) by the municipal or county clerk. The municipal or county clerk shall give notice of the referendum by publishing a notice in a newspaper of general circulation in the political subdivision, both on the publication day next preceding the advisory referendum election and one week prior to that publication date.

(c) The advisory referendum shall be conducted by the political subdivision’s election officials. The governing body of the political subdivision may specify the number of election officials for the referendum. The ballots shall contain the words “For the revenue sharing agreement” and “Against the revenue sharing agreement” and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other municipal or county elections in accordance with chs. 6 and 7, insofar as applicable.

(d) The election inspectors shall report the results of the election, showing the total number of votes cast and the numbers cast for and against the revenue sharing. The election inspectors shall attach their affidavit to the report and immediately file the report in the office of the municipal or county clerk.

(e) The costs of the advisory referendum election shall be borne by the political subdivision that holds the election.

History: 1995 a. 270; 1999 a. 150 s. 72; Stats. 1999 s. 66.0305; 1999 a. 182 s. 202; 2005 a. 98; 2007 a. 43; 2011 a. 75.

66.0307 Boundary change pursuant to approved cooperative plan. (1) DEFINITIONS.

(af) “Comprehensive plan” means an adopted plan that contains the elements under s. 66.1001 (2) or, if a municipality has not adopted a plan that contains those elements, a master plan adopted under s. 62.23 (2) or (3).

(am) “Department” means the department of administration.

(b) “Municipality” means a city, village or town.

(2) BOUNDARY CHANGE AUTHORITY. Any combination of municipalities may determine the boundary lines between themselves under a cooperative plan that is approved by the department under this section. A single city or village and a single town may use the mediated agreement procedure under sub. (4m) to determine a common boundary line under a cooperative plan that is approved by the department under this section. No boundary of a municipality may be changed or maintained under this section unless the municipality is a party to the cooperative agreement. The cooperative plan shall provide one or more of the following:

(a) That specified boundary line changes shall occur during the planning period and the approximate dates by which the changes shall occur.

(b) That specified boundary line changes may occur during the planning period and the approximate dates by which the changes may occur.

(c) That a required boundary line change under par. (a) or an optional boundary line change under par. (b) shall be subject to the occurrence of conditions set forth in the plan.

(d) That specified boundary lines may not be changed during the planning period.

(3) COOPERATIVE PLAN. (a) *Who may prepare plan.* The municipalities that propose to set the boundary lines between themselves under this section shall prepare a cooperative plan.

(b) *Purpose of plan.* The cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by

the plan consistent with the comprehensive plan of each participating municipality.

(c) *Content of plan; consistency with comprehensive plan.* The cooperative plan shall describe how it is consistent with each participating municipality's comprehensive plan.

(d) *Content of plan; boundaries and services.* The cooperative plan shall:

1. Identify any boundary change and any existing boundary that may not be changed during the planning period.

2. Identify any conditions that must be met before a boundary change may occur.

3. Include a schedule of the period during which a boundary change shall or may occur.

4. Include a statement explaining how any part of the plan related to the location of boundaries meets the approval criteria under sub. (5) (c) 5.

4m. Identify all highways within the territory covered by the plan of which each participating municipality has jurisdiction.

5. Describe the services to be provided to the territory covered by the plan, identify the providers of those services and indicate whether the provision of any service has received preliminary approval of any relevant governmental regulatory authority.

6. Include a schedule for delivery of the services described under subd. 5.

7. Include a statement explaining how provision under the plan for the delivery of necessary municipal services to the territory covered by the plan meets the approval criterion under sub. (5) (c) 3.

8. Designate the municipalities that are participating in the cooperative plan and that are required to ratify any boundary changes by enacting an ordinance under sub. (10).

(e) *Content of plan; compatibility with existing law.* The cooperative plan shall describe how the plan is consistent with current state and federal laws, county shoreland zoning ordinances under s. 59.692, municipal regulations and administrative rules that apply to the territory affected by the plan.

(f) *Content of plan; planning period.* The cooperative plan shall specify the duration of the proposed planning period, which shall be for a period of 10 years, except that the duration of the proposed planning period may be for a period greater than 10 years if a duration greater than 10 years is approved by the department.

(g) *Content of plan; zoning agreement.* The cooperative plan shall include all agreements under sub. (7m).

(h) *Existing plans may be used.* A cooperative plan may be based on, contain elements of or duplicate any existing plan for the same territory.

(4) PROCEDURE FOR ADOPTING COOPERATIVE PLAN. (a) *Authorizing resolution.* Each municipality that intends to participate in the preparation of a cooperative plan under this section shall adopt a resolution authorizing participation in the preparation of the plan. Notice of each resolution shall be given in writing, within 5 days after the resolution is adopted, to all of the following:

1. The department, the department of natural resources, the department of agriculture, trade and consumer protection and the department of transportation.

2. The clerks of any municipality, school district, technical college district, sewerage district or sanitary district which has any part of its territory within 5 miles of a participating municipality.

3. The clerk of each county in which a participating municipality is located.

4. Any county zoning agency under s. 59.69 (2) or regional planning commission whose jurisdiction includes a participating municipality.

(b) *Public hearing.* At least 60 days after adoption under par. (a) of the last resolution by a participating municipality and at least 60 days before submitting a cooperative plan to the department for review and approval under sub. (5), the participating municipali-

ties shall hold a joint hearing on the proposed plan. Notice of the hearing shall be given by each participating municipality by class 3 notice under ch. 985.

(c) *Comment on plan.* Any person may comment on the plan during the hearing and may submit written comments before, at or within 20 days following the hearing. All comments shall be considered by each participating municipality. A county zoning agency under s. 59.69 (2) or regional planning commission whose jurisdiction includes any participating municipality shall comment in writing on the plan's effect on the master plan adopted by the regional planning commission under s. 66.0309 (9), or development plan adopted by the county board or county planning agency under s. 59.69 (3), and on the delivery of municipal services, and may comment on any other aspect of the plan. A county in the regional planning commission's jurisdiction may submit comments on the effect of the cooperative plan on the master plan adopted under s. 66.0309 (9) and on the delivery of county services or on any other matter related to the plan.

(d) *Adoption of final plan.* 1. Subject to subd. 2., after the public hearing under par. (b) and consideration of comments made on the proposed cooperative plan, the plan participants may revise the plan in response to the comments and may, by resolution adopted by each participating municipality, adopt a final version of the plan.

2. If within 30 days after the public hearing under par. (b) a petition opposing the plan, signed by a number of qualified electors equal to at least 10 percent of the votes cast for governor in the municipality at the last gubernatorial election, is filed with the clerk of a participating municipality, the final version of the plan may be adopted in that municipality only by an affirmative vote of three-fourths of the members of the municipality's governing body who are present and voting. The petition shall conform to the requirements of s. 8.40.

(e) *Advisory referendum.* 1. Within 30 days after adoption of a final plan under par. (d), the governing body of a participating municipality may adopt a resolution calling for an advisory referendum on the plan. An advisory referendum shall be held if, within 30 days after adoption of the final plan under par. (d), a petition, signed by a number of qualified electors equal to at least 10 percent of the votes cast for governor in the municipality at the last gubernatorial election, is filed with the clerk of a participating municipality and as provided in s. 8.37, requesting an advisory referendum on the cooperative plan. The petition shall conform to the requirements of s. 8.40.

2. The advisory referendum shall be held not less than 70 days nor more than 100 days after adoption of the resolution under subd. 1. calling for the referendum or not less than 70 days nor more than 100 days after receipt of the petition by the municipal clerk. The municipal clerk shall give notice of the referendum by publishing a notice in a newspaper of general circulation in the municipality, both on the publication day next preceding the advisory referendum election and one week prior to that publication date.

3. The advisory referendum shall be conducted by the municipal election officials. The governing body of the municipality may specify the number of election officials for the referendum. The ballots shall contain the words "For the cooperative plan" and "Against the cooperative plan" and shall otherwise conform to the provisions of s. 5.64 (2). The election shall be conducted as are other municipal elections in accordance with chs. 6 and 7, insofar as applicable.

4. The election inspectors shall report the results of the election, showing the total number of votes cast and the numbers cast for and against the cooperative plan. The election inspectors shall attach their affidavit to the report and immediately file the report in the office of the municipal clerk. The election inspector shall file a certified report of the results in the office of the clerk of each municipality that is a party to the cooperative plan.

5. The costs of the advisory referendum election shall be borne by the municipality that holds the election.

(f) *Submittal of final plan to department.* If no advisory referendum is held under par. (c), the plan participants may submit the final version of the cooperative plan to the department for approval under sub. (5) at least 60 days but not more than 180 days after the public hearing under par. (b). If an advisory referendum is held under par. (c), each participating municipality shall determine, by resolution, whether to submit the final version of the cooperative plan to the department for approval under sub. (5). The resolution shall be adopted within 60 days after the last advisory referendum is held. If any of the plan participants fails or refuses to approve submittal of the cooperative plan to the department, the plan may not be submitted. Any written comment received by a participating municipality on any version of the cooperative plan shall be submitted to the department at the time that the cooperative plan is submitted. If the cooperative plan is not submitted to and approved by the department, it may not be implemented under this section by any of the participating municipalities.

(4m) MEDIATED AGREEMENT PROCEDURE. (a) 1. As an alternative to the parties mutually invoking the procedure under this section, a city, village, or town may petition the department for mediation of a cooperative plan under this paragraph.

2. A city or village may petition for mediation if all of the following apply:

a. The city or village adopts an authorizing resolution under sub. (4) (a) (intro.) and requests in writing an adjacent town to adopt an authorizing resolution under sub. (4) (a) (intro.) and the town fails to adopt the resolution within 60 days after the request is received by the town.

b. The city or village has adopted a comprehensive plan.

3. A town may petition for mediation if all of the following apply:

a. The town adopts an authorizing resolution under sub. (4) (a) (intro.) and requests in writing an adjacent city or village to adopt an authorizing resolution under sub. (4) (a) (intro.) and the city or village fails to adopt the resolution within 60 days after the request is received by the city or village.

b. The town has adopted a comprehensive plan.

(b) A municipality that is authorized under par. (a) to petition the department for mediation and elects to do so shall submit the petition within 90 days after the municipality has adopted the authorizing resolution described in par. (a) 2. a. or 3. a. Upon receipt of a petition for mediation, the department shall notify the nonpetitioning adjacent municipality identified in the petition that the petition has been submitted. Within 45 days after receipt of notice from the department that a petition has been submitted, the nonpetitioning municipality shall notify the department whether it agrees to engage in mediation to develop a cooperative plan under this section. Failure of the nonpetitioning municipality to timely notify the department is considered notice that the municipality does not agree to engage in mediation. The department shall send written notice of the nonpetitioning municipality's decision, on whether it will participate, to the petitioning municipality. If the nonpetitioning municipality refuses to engage in mediation, the petitioning municipality may not submit a petition under this paragraph involving the same nonpetitioning municipality for a period of 3 years after the department sends notice of the refusal.

(c) 1. If a nonpetitioning town refuses under par. (b) to engage in mediation, the town may not contest any annexation of its territory to the petitioning city or village that is commenced during the shorter of the following periods:

a. The period of 270 days beginning after the town refuses under par. (b) to engage in mediation.

b. The period beginning on the date the town refuses under par. (b) to engage in mediation and ending on the date the town agrees to engage in mediation.

2. If a nonpetitioning city or village refuses under par. (b) to engage in mediation, an annexation of territory of the petitioning town to the nonpetitioning city or village that is commenced during the shorter of the following periods shall be reviewed by the department in the manner described under s. 66.0217 (6), regardless of the population of the county in which the annexation proceeding is commenced, and, notwithstanding s. 66.0217 (11) (c), may be contested by the town if the department determines that the annexation is not in the public interest:

a. The period of 270 days beginning after the city or village refuses under par. (b) to engage in mediation.

b. The period on the date the city or village refuses under par. (b) to engage in mediation and ending on the date the city or village agrees to engage in mediation.

(d) 1. If both the petitioning municipality and nonpetitioning municipality agree to engage in mediation to develop a cooperative plan under this section, the municipalities shall select a mediator. The department may assist the municipalities in selecting a mediator. If the municipalities are unable to agree on the selection of a mediator, the department shall furnish a list of 5 mediators to the municipalities. The municipalities shall alternatively strike a name from the list until one name remains, who shall be the mediator.

2. The mediator shall assist the parties through recognized mediation techniques to develop and reach agreement on a cooperative plan under this section. Unless the participating municipalities agree to extend the mediation period, the mediation period expires after 270 days. Unless they agree otherwise, the participating municipalities are equally responsible for the costs of the mediation.

(e) Before the participating municipalities engage in mediation under this subsection, each shall adopt a resolution under sub. (4) (a) (intro.) and provide the required notice of the resolution. Notwithstanding sub. (4) (b), if the participating municipalities agree on a cooperative plan under this subsection, a public hearing on the plan shall be held under sub. (4) (b) no sooner than 45 days after agreement is reached and at least 45 days before submitting the plan to the department for review and approval under sub. (5).

(f) If any litigation contesting annexation of territory of the petitioning or nonpetitioning town to the city or village is commenced during the 3-year period after the department receives the petition for mediation under par. (b), the judge shall under s. 802.12 (2), unless the nonpetitioning municipality objects, order the parties to select a settlement alternative under s. 802.12 (1) (i) as a means to attempt settlement.

(5) DEPARTMENT REVIEW AND APPROVAL OF LOCAL OR COOPERATIVE PLAN. (a) *Generally.* The department shall make a written determination of whether to approve a cooperative plan within 90 days after receiving the plan unless the department and the parties to the plan agree to a longer determination period. The department shall consider written comments on the plan received by a municipality under sub. (4) (c) that is submitted to the department under sub. (4) (f) or from any other source. The department may request information relating to the cooperative plan, including any comprehensive plan or land use plan currently being utilized by any participating municipality, from that municipality, and from any county or regional planning commission. The department may seek and consider comments from any state agency on whether the cooperative plan is consistent with state laws and administrative rules under the agency's jurisdiction. Any state agency requested to comment on a cooperative plan shall comply with the request. The department shall issue its determination of whether to approve the cooperative plan in writing, supported by specific findings based on the criteria under par. (c). The approval or disapproval of a cooperative plan by the department under this section is not a contested case, as defined in s. 227.01 (3), for purposes of ch. 227.

(b) *Hearing.* Any person may request a public hearing before the department on a cooperative plan submitted to the department for approval. A request for a public hearing shall be in writing and shall be submitted to the department within 10 days after the cooperative plan is received by the department. If requested, the department shall, and on its own motion the department may, hold a public hearing on the cooperative plan. If requested to hold a public hearing, the department is required to hold only one hearing, regardless of the number of requests for a hearing. Any public hearing under this paragraph shall be held in a municipality that is a party to the cooperative plan.

(c) *Approval of cooperative plan.* A cooperative plan shall be approved by the department if the department determines that all of the following apply:

1. The content of the plan under sub. (3) (c) to (e) is sufficient to enable the department to make the determinations under subs. 2. to 5.

2. The cooperative plan is consistent with each participating municipality's comprehensive plan and with current state laws, municipal regulations, and administrative rules that apply to the territory affected by the plan.

3. Adequate provision is made in the cooperative plan for the delivery of necessary municipal services to the territory covered by the plan.

5. The shape of any boundary maintained or any boundary change under the cooperative plan is not the result of arbitrariness and reflects due consideration for compactness of area. Considerations relevant to the criteria under this subdivision include quantity of land affected by the boundary maintenance or boundary change and compatibility of the proposed boundary maintenance or boundary change with natural terrain including general topography, major watersheds, soil conditions and such features as rivers, lakes and major bluffs.

6. Any proposed planning period exceeding 10 years is consistent with the plan.

(d) *Return and resubmittal of plan.* The department may return a cooperative plan, with comments, if the department determines that the cooperative plan, if revised, may constitute a plan that can be approved by the department. If a cooperative plan is returned under this paragraph, each participating municipality may revise the plan, as directed by the department, adopt the revised plan by resolution and resubmit the plan to the department within 90 days after the plan is returned. After receiving a resubmitted cooperative plan, the department shall make a determination on approval within 30 days.

(6) **BINDING ELEMENTS OF COOPERATIVE PLAN.** If a cooperative plan is approved by the department under sub. (5) or an amended plan is approved under sub. (8), provisions in the plan to maintain existing boundaries, the boundary changes in the plan, the schedule for those changes, the plan for delivery of services, including road maintenance, and the schedule for those services are binding on the parties to the plan and have the force and effect of a contract.

(7) **OTHER BOUNDARY PROCEDURES.** (a) *Other procedures after hearing.* After the joint hearing under sub. (4) (b) is held, no other procedure, except the procedure under s. 281.43 (1m), for altering a municipality's boundaries may be used to alter a boundary included in the proposed cooperative plan under sub. (3) (d) 1. until the boundary is no longer included in the proposed cooperative plan, the municipality withdraws from the proposed cooperative plan or the proposed cooperative plan fails to receive approval from the department, whichever occurs first.

(b) *Other boundary procedures during the planning period.* During the planning period specified under sub. (3) (f), no other procedure for altering a municipality's boundaries may be used to alter a boundary that is included in the cooperative plan under sub. (3) (d) 1., except if an annexation is conducted under s. 281.43 (1m), regardless of whether the boundary is proposed to be maintained or changed or is allowed to be changed under the plan.

After the planning period has expired, the boundary may be altered.

(7m) **ZONING IN TOWN TERRITORY.** If a town is a party to a cooperative plan with a city or village, the town and city or village may agree, as part of the cooperative plan, to authorize the town, city or village to adopt a zoning ordinance under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the plan. The exercise of zoning authority by a town under this subsection is not subject to s. 60.61 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory covered by the plan, that ordinance and amendments to it continue until a zoning ordinance is adopted under this subsection. If a zoning ordinance is adopted under this subsection, that zoning ordinance continues in effect after the planning period ceases until a different zoning ordinance for the territory is adopted under other applicable law. This subsection does not affect zoning ordinances adopted under s. 59.692 or 87.30 or ch. 91.

(8) **AMENDMENTS TO COOPERATIVE PLAN.** (a) *Authority to amend plan.* A cooperative plan may be amended during the planning period if all the parties to the plan agree to the amendment and if the amendment is approved by the department.

(b) *When full procedure required.* An amendment to a cooperative plan that proposes to change a municipality's boundary or to change the approved planning period shall follow the same procedure as that required for an original plan.

(c) *When expedited procedure may occur.* An amendment to a cooperative plan that does not propose to change a boundary or the planning period shall follow the same procedure as that required for an original plan except that the hearing under sub. (4) (b) is not required unless objection to the amendment is made in writing by any person to the clerk of a participating municipality. An amendment under this paragraph shall be adopted by resolution of each of the participating municipalities. Notice of the amendment and adopting resolution shall follow the procedures specified in sub. (4) (a). Notice that the amendment will be submitted directly to the department unless objection is made in writing shall be given by each participating municipality by a class 3 notice under ch. 985. If no written objection to the amendment is received within 7 days after the last required notice is published, the amendment may be submitted directly to the department for approval. If written objection is timely made, the public hearing and other requirements under sub. (4) (b) and (c) apply.

(9) **COURT REVIEW OF DEPARTMENT DECISION.** The decision of the department under sub. (5) (c) or (d) or (8) to approve or not to approve a cooperative plan or an amendment to a plan is subject to judicial review under ch. 227.

(10) **BOUNDARY CHANGE ORDINANCE; FILING AND RECORDING REQUIREMENTS.** A boundary change under a cooperative plan shall be accomplished by the enactment of an ordinance by the governing body designated to do so in the plan. The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities and villages under s. 66.0217 (9) (a), apply to municipalities under this subsection. The requirements for the secretary of administration are the same as those required in s. 66.0217 (9) (b).

(11) **TIME FOR BRINGING ACTION.** No action to contest the validity of a cooperative plan under this section or an amendment to a cooperative plan, regardless of the grounds for the action, may be commenced after 60 days from the date on which the department approves the cooperative plan under sub. (5) or the amendment under sub. (8), respectively. No action relating to compliance with a binding element of a cooperative plan may be commenced later than 180 days after the failure to comply.

History: 1991 a. 269; 1993 a. 213, 301, 329, 399; 1995 a. 35, 201, 216, 227; 1997 a. 27, 35; 1999 a. 150 s. 67; Stats. 1999 s. 66.0307; 1999 a. 182 s. 199; 2001 a. 30; 2007 a. 43; 2009 a. 28; 2011 a. 75; 2015 a. 55; 2017 a. 59.

66.0309 Creation, organization, powers and duties of regional planning commissions. (1) **DEFINITIONS.** In this section: