

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: April 20, 2020

MEMORANDUM

TO: All Alders

FROM: Michael P. May
City Attorney

RE: Election of Council President and Vice President

On Tuesday, April 21, you will be asked to choose new officers for the Council, namely, the Council President and Vice President. This memo is to provide you with general information as to the procedure along with some information on a potentially unusual aspect of this election.

Ballots for the Election of Officers are Secret Ballots.

As far as I know, the election of officers of the Council is the ONLY time the Council may vote by secret ballot. This is a specific exception in the Open Meetings Law, sec. 19.88 Wis. Stat. Thus, the procedure being followed at the election – which will use Survey Monkey for voting -- will maintain the anonymity of votes.

The Survey Monkey ballot includes a “no vote” option, allowing a member of the Council to effectively not vote at all. This is to reflect the fact that, when paper ballots are used, a member of the Council may simply not turn in a ballot or turn in a blank ballot.

Committee of the Whole.

The Council traditionally devolves into the Committee of the Whole (COTW) for the election of officers. The Mayor leaves the chair and either the current Council President, or a person chosen by the President, chairs the COTW. These are the normal procedures:

1. A motion is made, seconded and voted on to convene as the COTW.
2. The COTW chooses a chair of the COTW. This is traditionally the current President of the Council, but may be another alder. The Mayor normally does not participate.
3. The Chair will ask for nominations for President. A nomination must be seconded. After asking for more nominations, at some point the chair will see that there are no more nominations, and will close nominations for the office. Closing of nominations may also be by motion. Then the body proceeds to hear statements and debate (if

desired), remembering the rule about only speaking twice on a topic. When debate is concluded, voting begins by ballot. The City Clerk announces the results of the balloting, which continues until one member gets a majority (11 votes) for the office. Between ballots, a candidate may drop out and the Council may nominate a new candidate.

4. The same procedure is used for Vice President of the Council.

5. Once the elections are completed, the Council comes out of the COTW and reports its result to the entire Council ("Rising and Reporting" in Robert's Rules of Order), which votes to accept the report, finalizing the election of officers.

Motion to Limit Terms.

I understand that Alder Furman may make a motion to limit the terms of the President and Vice-President to three months, expiring on the date of the July Council meeting, July 21. He asked me about this a few weeks ago, and I need to update the previous advice that I provided.

I want to be clear that the Council cannot give an "extension" of the current terms of the President and Vice-President. Under sec. 62.09(8)(e) and MGO sec. 2.205, the President and Vice-President are to be elected on the third Tuesday in April. Although the Council may not "extend" the term of office, it may reach a similar result by electing the same President and Vice-President. The laws do not, however, state the term of office. While it has traditionally been a one-year term, the Council has the authority to make it some term less than a year.

A motion to modify the term of office is an incidental motion under Robert's Rules of Order, sec. 31, and would require a majority vote of the Council (11 votes). This vote is not a ballot and thus, like all other votes, is a public vote with the ayes and nays recorded upon request.

My understanding is that Alder Furman will make this motion as to the Presidential nomination, but it will apply only to the first ballot for President. If no person wins a majority of votes on that ballot, the limited term motion will no longer be in effect. A separate motion to limit the term will be required for Vice-President.

Regardless of the vote on the motion to limit the term, the ballots for President and Vice-President will be secret ballots.

Effect of the Vote.

Once the President and Vice-President are elected, they immediately take office for the rest of the meeting and the rest of their term.

CC: Mayor Rhodes-Conway