

TOWN OF MORRISON QUORUM ORDINANCE

1. TITLE AND AUTHORITY

This Ordinance shall be known, cited and referred to as the: "Town of Morrison Quorum Ordinance." The Town of Morrison, by its Town Board, pursuant to Sections 60.22(1), 60.22(3), 60.40, 60.45, 66.0607, 60.61, 60.62, 60.10(2)(c), 61.34, 66.0103, and 66.0301 of the Wisconsin Statutes: hereby enacts the following Ordinance which hereby and henceforth constitutes CHAPTER 40 of the Town of Morrison Code of Ordinances.

2. INTENT AND PURPOSE

The intent and purpose of this Ordinance is to enable the Town's important public business to be conducted for the health, safety, welfare and convenience of the public under circumstances, albeit those rare circumstances, where a Town Board meeting cannot be conducted with regard to a particular Matter or Matters due to the inability to assemble a quorum to vote on a Matter or Matters due to the Recusal of two or more Town Board members in accord with the Code of Ethics For Local Government Officials contained at Section 19.59 Wis. Stats. This Ordinance shall at all times be administered consistent with the public policy of respecting the electorate and maintaining a Town Board comprised of elected Town Supervisors to the greatest extent possible while recognizing the necessity of maintaining the quorum necessary for the Town Board to act in Matters affecting the health, safety, welfare or convenience of the public. The application of this Ordinance and the reconstitution of the Town Board pursuant to this Ordinance should occur only under those circumstances where reconstitution of the Town Board to restore a quorum is necessary for the government and good order of the Town of Morrison.

3. DEFINITIONS

As used in this Ordinance, the following terms shall have the meanings indicated:

- 3.1 Matter, Matters. Shall mean an agenda item or items that are either currently before the Town Board or are reasonably certain to come before the Town Board, as to which Town Supervisors have determined to Recuse themselves from acting upon.
- 3.2 Prohibited Interest. Means that either the Town Supervisor or a member of the Town Supervisor's immediate family or an organization with which the Town Supervisor is associated (as the terms "immediate family," "organization" and "associated" are defined at Section 19.42 Wis. Stats.) has a substantial financial interest in the Matter or that action on the Matter will produce, or assist in the production of a substantial benefit, direct or indirect, for the Town Supervisor, one or more members of the Town Supervisor's immediate family either separately or together, or an organization with which the Town Supervisor is associated.
- 3.3 Reconstituted Town Board. Means the Morrison Town Board quorum restored to not more than two Town Supervisors by this Ordinance.
- 3.4 Recusal, Recuse. Means the voluntary determination by a Town Supervisor to decline to participate and instead abstain from all discussion, deliberation and voting on a Matter either because: the Town Supervisor has determined that he or she has a Prohibited Interest; or the Town Supervisor has determined that reasonable people may disagree about whether the effect of Town Board action on that particular agenda item will be positive or negative or will be substantial or insignificant as to the Town Supervisor's financial interest and as to which the Town Supervisor exercises the Town Supervisor's judgment that to participate in the discussion, deliberation and voting on the agenda item would undermine public confidence in the decision or the Town's government.
- 3.5 Succession Event. Means as to any particular Matter or Matters, the determination of two or more Town Supervisors to Recuse themselves from taking any official action either in accord with a written advisory opinion issued to the Town Supervisor(s) by the Town Attorney, or otherwise.
- 3.6 Wind Energy Member. Means either the individual or the two individuals who undertake the role of Town Supervisor because of a Succession Event.

- 3.7 Willing and able to serve as Temporary Member. Means that the Temporary Member appointed is both willing to accept appointment and not disabled from doing so by Recusal or any other disabling circumstance or condition.

4. RECUSAL STATEMENT

- 4.1 A Town Supervisor electing Recusal as to any Matter or Matters, shall file a written Statement of Recusal with the Town Clerk which:
- 4.1.1 Makes only the general Statement that the Town Supervisor has a Prohibited Interest in a certain Matter or Matters;
 - 4.1.2 Acknowledges that there is no requirement that the specific nature or the particular facts of the Prohibited Interest be detailed in the Town Supervisor's Recusal Statement; and
 - 4.1.3 Identifies the particular Matter or Matters from which the Town Supervisor is Recusing himself or herself.

5. SUCCESSION EVENT APPOINTMENT OF WIND ENERGY MEMBER(S)

- 5.1 Upon a Succession Event, Section 5 of this Ordinance provides for the appointment of the number of Wind Energy Member(s) required to assemble a quorum and Reconstitute the Town Board as to the Matter or Matters which are the subject of the Recusal Statements.
- 5.2 Upon any Succession Event a Wind Energy Member shall be deemed appointed as provided herein. The appointee or appointees required to establish a Town Board quorum shall be determined from the list of ranked Wind Energy Member set forth herein. Each Temporary Wind Energy Member appointee is listed below in Section 5.2.1 in priority rank order. The highest ranking Wind Energy Member, who is willing and able to serve as Wind Energy Member shall be deemed appointed.

5.2.1 Wind Energy Member(s) appointees in rank order: (1) Town Clerk; (2) Town Treasurer; (3) Zoning Administrator; (4) Chairman of the Town Plan Commission; (5) members of the Town Plan Commission ranked according to number of years of service with those having the most number of years of service ranked in priority above those having the least number of years of service on the Plan Commission; (6) Chairman of the Zoning Board of Appeals; (7) members of the Zoning Board of Appeals ranked according to number of years of service with those having the most number of years of service ranked in priority above those having the least number of years of service on the Zoning Board of Appeals.

5.3 Upon a Succession Event, if the succession process set forth at Section 5.2 fails to result in the appointment of a sufficient number of Wind Energy Member who are willing and able to serve as the Reconstituted Town Board, then:

5.3.1 A special Town Meeting conducted pursuant to Section 60.12 Wis. Stats. shall be convened for the purpose of nominating and appointing one or two Wind Energy Member(s) to act as the Reconstituted Town Board as to the Matter or Matters identified in the Recusal Statements of the Recused Town Supervisors.

5.3.2 The special Town Meeting agenda shall also address the issue of non-budgeted expenditures and provide a particular grant of financial expenditure authority to the Reconstituted Town Board.

6. RESOLUTION CREATING RECONSTITUTED TOWN BOARD

Upon a Succession Event:

6.1 The Wind Energy Member appointees shall be contacted sequentially by the Town Clerk in rank order.

6.2 The Town Clerk's contact to those listed at Section 5.2.1 shall be a written or oral notice given to each successive appointee soliciting a

response from the appointee as to whether the appointee is both willing and able to serve as Wind Energy Member:

- 6.3 The appointee's response as to whether the appointee is both willing and able to serve as Wind Energy Member, shall be delivered to the Town Clerk and then to the Town Board orally or in writing, provided that if such response is given orally, that response shall be recorded by the Town Clerk in the minutes of the Town Board Meeting convened for the purpose of passing the resolution creating the Reconstituted Town Board.
- 6.4 The Town Board of the Town of Morrison shall convene a duly noticed Town Board Meeting and pass a resolution for the purpose of: accepting the Recusal Statements; invoking the provisions of this Ordinance; confirming the appointment of the Wind Energy Member (s) appointed pursuant to this Ordinance thereby creating the Reconstituted Town Board; and stating the Matters within the scope of the power and authority of the Reconstituted Town Board as those Matters are identified in the Recusal Statements filed with the Town Clerk pursuant to Section 4 of this Ordinance.
- 6.5 By resolution the Town Board shall also fix the amount of the bond required and shall determine whether the Wind Energy Member will be compensated and if so, the amount of that compensation. If the Wind Energy Member is a bonded and salaried elected or appointed official, then there shall be no required additional bond and no additional compensation, except as may be determined by the Town Board or otherwise as required by law. If the Wind Energy Member is an unbonded or per diem compensated appointed official, then the Wind Energy Member's bond shall be fixed by the Town Board and the Wind Energy Member shall be compensated on the same per diem or other basis as he or she is compensated in his or her current role as a Town official, administrator or appointee unless otherwise determined by the Town Board.
- 6.6 The original resolution creating the Reconstituted Town Board in combination with the provisions of this Ordinance defines the entire scope of authority granted to the Reconstituted Town Board. The scope of that authority may be expanded, extended or otherwise

revised only by the express terms of a subsequent Town Board resolution.

6.7 The Reconstituted Town Board shall, within its delegated authority, conduct the business of the Town Board of the Town of Morrison in accord with all of the laws of the State of Wisconsin.

6.8 The Reconstituted Town Board is hereby granted the authority to conduct whatever special Reconstituted Town Board meetings as may be necessary to fulfill the Town Board's obligation and discharge the Town Board's duties as to the Matters which are within the Reconstituted Town Board's jurisdiction. The Reconstituted Town Board may also conduct some or all of its business as part of any regular Town Board Meeting provided that in such instance, the Reconstituted Town Board meeting shall be set forth upon the agenda as a separate item, the Matters to be considered shall be specifically defined, and for public convenience the business to be conducted by the Reconstituted Town Board shall be taken up as the first item(s) on the agenda of any such regular Town Board Meeting.

7. **OATH, BOND, SCOPE OF POWERS AND DUTIES OF Wind Energy Member**

7.1 Upon taking and filing the official oath and bond required by Section 60.31 Wis. Stats. within five (5) days after notification of appointment, the Wind Energy Member(s) shall fully participate and act as a Wind Energy Member of the Reconstituted Town Board, but only as to the particular Matter or Matter(s) stated in the Section 6.4 Town Board resolution as those Matters upon which the elected Town Board has determined that it cannot assemble a quorum.

7.2 The Chairman of the Reconstituted Town Board shall be the elected Town Supervisor. If there is no remaining elected Town Supervisor on the Reconstituted Town Board, then the Chairman of the Reconstituted Town Board shall be deemed to be the highest ranking Temporary Supervisor.

7.3 A Wind Energy Member shall not take any official action with regard to any Town Board business outside the scope of the defined Matter(s) expressed in the Town Board resolution creating the Reconstituted Town Board.

7.4 In the conduct of any Reconstituted Town Board business which involves or may involve non-budgeted expenditures for the retention of professionals, initiation of litigation, acquisition of materials, supplies or other property, or any other unbudgeted purchase of services, any Reconstituted Town Board determination to engage in such expenditures in the context of any such Matter shall be conditional and subject to approval granted by a special Town Meeting conducted pursuant to Section 60.12 Wis. Stats.

7.4.1 In such instance, by this Ordinance, a special Town Board Meeting shall be deemed convened and called by the Town Board, except that the Town Supervisors Recused from participating in the Matter(s): shall not conduct; shall not make or second any motion or resolution; shall not participate in the discussion or debate; but may vote on any motion or resolution in the special Town Meeting.

7.4.2 The special Town Meeting shall be conducted by the Reconstituted Town Board.

7.4.3 Any remaining elected Town Supervisor who serves on the Reconstituted Town Board shall conduct the Town Meeting unless no elected Town Supervisor is willing or able to conduct such Town Meeting in which case the highest ranking Wind Energy Member shall conduct that special Town Meeting.

8. **REPLACEMENT OF Wind Energy Member**
TERMINATION OF RECONSTITUTED TOWN BOARD'S
AUTHORITY

8.1 If at any time during the course of conducting the Town's business regarding a Matter, a Wind Energy Member becomes unwilling or unable to serve, then the successor to that Wind Energy Member

shall be determined and a replacement Wind Energy Member shall be appointed and confirmed as provided in Sections 5, 6 and 7 of this Ordinance.

8.2 Except as provided in Section 8.3, each Wind Energy Member's appointment shall be deemed suspended upon the Reconstituted Town Board's final decision or action with regard to the final Matter upon which the Reconstituted Town Board was authorized to act.

8.3 If any additional matter(s), related to the Matter(s) which were assigned as the original jurisdiction of the Reconstituted Town Board, arise following the Reconstituted Town Board's final decision or action on those original jurisdiction matters, the Town Board may, by resolution pursuant to Section 6.6, authorize further action(s) by the Reconstituted Town Board.

8.4 If any of the matter(s) change which were assigned as the Original Jurisdiction of the Reconstituted Town Board that would affect or change the Prohibited Interest as defined in Section 3.2.

9. SEVERABILITY

If any provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of this Ordinance. Instead, any provision of this Ordinance determined by a court to be unenforceable shall: be deemed severable from the remainder of this Ordinance; and shall be deemed either excised or revised by the court's decision to thereupon automatically cause this Ordinance to remain in full compliance with current law at all times.

10. EFFECTIVE DATE

This Ordinance shall take effect on the date of its adoption written below.

Adopted this 22nd day of March, 2010.

Todd Christensen
Todd Christensen, Chairman

Ronald Lemke (Supervisor)
Ronald Lemke, Supervisor

Kevin Collins (Supervisor)
Kevin Collins, Supervisor

Approved, Attested By:

Colleen Magley, Town Clerk
Colleen Magley, Town Clerk

Posted: the 23rd day of March, 2010