

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **September 14, 2021** immediately following the City Council meeting which begins at **5:30 PM**

THE CITY OF ASHLAND WILL BE CONDUCTING THEIR MEETINGS IN PERSON WITH THE AVAILABILITY TO ATTEND VIRTUALLY

Please contact the Clerk's office if you require accommodations to attend the meeting.

To join the meeting from your computer, tablet or smartphone:

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United States (Toll Free): 1-877-309-2073

Access Code: 157-254-717

The following items will be considered:

1. Roll Call
2. Council President's Report
3. Administrator's Report
4. Approval of Agenda
5. Discussion Items
 - A. Discussion and Possible Action Regarding a Possible Referendum Asking Voter Opinion on the Legalization of Cannabis (*Councilor Lindell*)
 - B. Discussion and Possible Action Regarding Kreher Park Redevelopment and Campground Expansion Updates (*Parks Director*)
 - C. Discussion and Possible Action Regarding the City of Ashland's Policy for Acceptance of Donations From Enbridge (*Parks Director*)
6. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

SUBJECT: Discussion and Possible Action Regarding a Possible Referendum Asking Voter Opinion on the Legalization of Cannabis (*Councilor Lindell*)

RECOMMENDATION: Discussion and Possible Action

DEPARTMENT OF ORIGIN: Councilor Lindell

CLEARANCES: Council President

EXHIBITS:

1. Wisconsin Election Commission Advisory Referendum Petitions Frequently Asked Questions
2. Example Resolution, Eau Claire County
3. Fact Sheet, Eau Claire County

SUMMARY STATEMENT:

Council is being asked to consider asking the voters of Ashland their opinion on the legalization of Cannabis. The results of this referendum could be used for opinion statistics in Madison for lobbying and shaping potential legislation. Previously, council considered a resolution declaring support for legalization and council decided not to push the resolution forward. However, that discussion indicated an openness to a referendum.

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INTERIM ADMINISTRATOR MEAGAN WOLFE

DATE: July 5, 2018

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
Milwaukee County Election Commission
City of Milwaukee Election Commission

FROM: Meagan Wolfe
Interim Administrator

Michael Haas
Staff Counsel

SUBJECT: Advisory Referendum Petitions Frequently Asked Questions

Occasionally the Wisconsin Elections Commission receives inquiries regarding the process for reviewing petitions requesting a local advisory referendum election and the process for conducting such elections. In addition, it has become increasingly popular for interested groups to organize coordinated campaigns promoting advisory referendum petitions at the municipal and county levels on specific topics in order to encourage state or federal policymakers to consider the results of referendum elections regarding the same or similar questions. In the minds of some, advisory referendum elections can be an important opportunity for public input into policymaking decisions. To others, an advisory referendum election is simply a “glorified straw poll” and detracts from the principles of representative democracy.

As a general matter, the definition of “referendum” in Wis. Stat. § 5.02(16s) includes elections involving advisory, validating or ratifying questions. Therefore, if an advisory referendum election is ordered by a governing body, it must comply with the administrative requirements of other elections. But there is no right of citizens to petition for an advisory election contained in the Wisconsin Constitution or Wisconsin Statutes. Nevertheless, citizens and local policymakers sometimes advocate using an advisory referendum election to gauge the public’s support for or opposition to either specific projects or policy decisions. Advisory referendum petitions are distinct from direct legislation petitions which may be submitted in Wisconsin cities and villages, the review and processing of which are governed by Wis. Stat. § 9.20.

With that background, following is a summary of guidance which the WEC and its predecessor agencies, the Government Accountability Board and the State Elections Board, have provided to local election officials regarding advisory referendum petitions and elections.

1. What are the options for a local jurisdiction which receives a petition requesting an advisory referendum?

Because there is no right to petition for an advisory referendum, a municipality or county has a range of options after receiving such a petition. For instance, the jurisdiction may take no action regarding the petition, may review the petition to determine the number of valid signatures on the petition, may discuss the petition and its subject matter at a meeting of the governing body, or may order that an advisory referendum election take place posing the question listed in the petition or some alternative form of the question approved by the governing body.

Depending on the timing of the petition's submission to the clerk in relation to the next meeting of the governing body, the clerk may wish to seek the governing body's direction regarding whether or not to review the petition. Alternatively, the clerk may review the petition to determine the number of valid signatures and present those findings to the governing body for its consideration. There is no legal obligation for a clerk to process or review an advisory referendum petition unless directed to do so by the governing body.

2. If the clerk or governing body wish to process and review an advisory referendum petition, what are the requirements for the form of the petition?

Wis. Stat. § 8.40 governs the requirements of election petitions, including for a referendum. That statute requires election petitions to include the heading "Petition" as well as the signature, address and printed name of each signer, along with the certification of the circulator. The sufficiency of petition signatures is further governed by EL Ch. 2, Wis. Adm. Code. It should be noted, however, that a governing body may choose to order an advisory referendum on a particular topic despite any deficiencies in a petition requesting such an election.

3. If the clerk or governing body wish to process and review an advisory referendum petition, how many valid signatures are required for the petition to be sufficient?

Because there is no statutory requirement that a governing body act on an advisory referendum petition, there is also no requirement that a municipal or county clerk review such a petition, and there is no standard for determining the number of signatures which make it sufficient, absent a directive from the governing body.

In comparison, petitions requesting direct legislation require valid signatures equal to at least 15 percent of the votes cast for governor at the last gubernatorial election in the city or village, and recall petitions require valid signatures equal to at least 25 percent of the votes cast for governor at the last election within the same district as that of the officeholder being recalled. Governing bodies may take these requirements into account when assessing the support indicated by an advisory referendum petition, but they do not govern the treatment of such petitions.

4. What are the deadlines for the clerk to review an advisory referendum petition and for the governing body to act on it?

Because there is no statutory requirement to act on an advisory referendum petition, there are no deadlines for the clerk to review the petition signatures, or for the governing body to consider or act on such a petition. Again, the timelines for the review of recall petitions (31 days under Wis. Stat. § 9.10(3) and (4)) and for acting on a direct legislation petition (30 days following clerk's certification under Wis. Stat. § 9.20(4)) may be instructive but are not binding for advisory referendum petitions.

If a local governing body wishes to order an advisory referendum election, the question must be delivered to the clerk responsible for preparing the ballot at least 70 days prior to the election at which the measure will appear on the ballot. Typically, this means that municipal referendum questions to be included on a regular election ballot must be filed with the county clerk at least 70 days before the election, and that advisory referendum questions to be voted on at a municipal special election must be approved and filed with the municipal clerk under the same deadline. The clerk responsible for preparing the ballot has discretion to include the question on the ballot if it is filed later than 70 days prior to the election, if doing so will not delay the preparation and delivery of ballots to absentee voters.

For the 2018 General Election on November 6, 2018, the 70-day deadline is August 28, 2018.

5. May a local governing body order the scheduling of an advisory referendum within its jurisdiction absent the submission of a petition?

Yes, both the Legislature and local governing bodies may authorize and order an advisory referendum election independent of a petition request. An advisory referendum election may be scheduled to occur on the same date as a regularly scheduled election or as a special election.

6. If a governing body orders an advisory referendum election, what procedural requirements apply to the conduct of the election?

An advisory referendum election is a public election subject to all of the procedural requirements as other elections, including the posting and publication of election notices; responsibilities of clerks, special voting deputies and election inspectors; absentee ballot procedures; use of electronic voting equipment; and canvassing of election results. Specifically, Wis. Stat. § 5.64(2) governs the form of the referendum ballot. Also, in the case of an advisory referendum that is not scheduled on the date of a regular election, Wis. Stat. § 8.55 governs election notice requirements for a special referendum.

7. May an advisory referendum ballot contain a multiple-choice question?

Wisconsin Statutes are silent regarding whether a referendum can be framed as a multiple-choice question, particularly with regard to advisory referendum elections. Wis. Stat. § 5.64(4) states that a referendum question “may not be worded in such a manner as to require a negative vote to approve a proposition or an affirmative vote to disapprove a proposition.”

While the state elections agency has not adopted formal guidance on this question, the previous State Elections Board did issue an informal advisory opinion concluding that an advisory referendum question could comply with this statutory requirement by properly framing a multiple-choice question. The opinion concluded that the key is to ensure that all voters are provided the opportunity to vote upon all questions by carefully drafting the question and the options listed. The possible responses should be distinct and cover all options in order to provide effective and accurate feedback to policymakers. It is often a best practice to include a catch-all response such as “None of the above” to ensure that the positions of all voters are accurately captured by the results.

Because advisory referendum questions are not specifically addressed in the Statutes, and because their results are non-binding, the opinion of WEC staff is that local governing bodies are afforded some latitude in framing the question depending upon the specifics of the issue and the public feedback which is sought. Municipal clerks may wish to consult with their voting equipment vendors to ensure that the structure and length of the referendum question can be accommodated by the particular equipment and programming that is used.

Referendum questions typically should not be structured as multi-part questions that, for instance, only permit voters to answer a second question if they have voted yes to the first question.

Please note that, whether or not a referendum is posed as a multiple-choice question, there are practical considerations related to the length of the question and possible responses. Questions that exceed 5,000 characters and answers that exceed 100 characters will create administrative issues in both the WisVote system and on MyVote Wisconsin where the text fields for contests are limited. WEC staff recommends limiting the question field to no more than 5,000 characters (including any introductory language) and the response fields to no more than 100 characters. If questions that exceed these limits are being considered or are approved, please contact WEC staff to discuss wording of the question on the ballot and in WisVote.

8. What happens if a county board has ordered an advisory referendum election for a question that is the same or similar to one authorized by a municipal governing body? Must both questions be listed on the ballot?

This situation is becoming more common with the increase in organized efforts to seek advisory referendum elections in numerous jurisdictions in order to influence state or federal officials. It is also a situation that requires and benefits from communication between the clerks and elected officials of the counties and municipalities involved.

The short answer is that a county clerk must honor timely requests to include referendum questions from all jurisdictions. This may tend to create confusion for voters, however, if they are asked to vote twice on an identical question, once as a municipal referendum and once as a county referendum. It may also create confusion if there is a slight difference in the wording of the question even though the substance is identical, and voters must discern the significance of any variations in the questions.

Voter confusion may be reduced by effective communication between jurisdictions in advance of an order to conduct an advisory referendum. If a county board has authorized an advisory referendum on a question that also interests a municipal governing body, the municipality may wish to simply adopt the results of the county referendum in the municipality. In that case the municipal governing body should vote to rescind its referendum election and clearly communicate to the county clerk and to the public that the municipality will not conduct its own referendum election. If both the county and the municipality wish to conduct their own advisory referendum, some thought should be given to whether the question can and should be posed in an identical manner.

If you have any questions regarding this guidance or believe other topics should be included in this FAQ document, please contact the WEC Help Desk at 608-261-2028 or elections@wi.gov.

- DIRECTING THE COUNTY CLERK TO PLACE THE REFERENDUM QUESTION
CONTAINED IN THIS RESOLUTION REGARDING LEGALIZATION OF CANNABIS ON
THE NOVEMBER 6, 2018 BALLOT-

WHEREAS, A non-binding advisory referendum can gauge public opinion and give voters
an opportunity to learn about a public health issue that will likely be before the legislature; and

WHEREAS Alaska, California, Colorado, Maine, Nevada, Oregon, and Washington have
legalized adult personal use of marijuana, and regulate the production, distribution, and sale of
cannabis; and

WHEREAS, Vermont and the District of Columbia have legalized limited personal
possession and cultivation of cannabis by adults; and

WHEREAS, Michigan and Illinois may fully legalize and tax cannabis within the next
year; and

WHEREAS, in order to determine whether the people of Eau Claire County support or
oppose the legalization of cannabis, the County Board may conduct a countywide advisory
referendum, pursuant to Wis. Stat. 59.52(25), in the Fall Election on November 6, 2018.

WHEREAS, other Wisconsin Counties will be offering advisory cannabis referendums
for their constituents' consideration on November 6, 2018.

NOW, THEREFORE, BE IT RESOLVED that the Eau Claire County Board of
Supervisors authorizes the following countywide advisory referendum be placed on the
November 6, 2018 ballot:

Should cannabis:

(Please select only one of the alternatives below or your vote will be invalid)

_____ (a) Be legal for adult, 21 years of age and older, recreational or medical use,
taxed and regulated like alcohol, with the proceeds from the taxes used for education,
healthcare, and infrastructure in Wisconsin?

_____ (b) Be legal for medical purposes only and available only by prescription
through a medical dispensary?

_____ (c) Remain a criminally illegal drug as provided under current law?

BE IT FURTHER RESOLVED that the Eau Claire County Board of Supervisors directs
the county clerk to forward this resolution to the governor, assembly members and senators
representing Eau Claire county and the Wisconsin Counties Association.

Committee on Administration

KRZ/yk

Dated this _____ day of _____, 2018.

ORDINANC/18-19/051

FACT SHEET

TO FILE NO. 18-19/051

This resolution is not a position statement either pro or con on the legalization of cannabis. This resolution is meant to facilitate public input from Eau Claire County voters on this controversial topic through an advisory referendum on November 6, 2018. The results of the advisory referendum will be shared with members of the Wisconsin assembly and senate as well as the governor. There are three alternatives listed as follows:

Should cannabis:

(Please select only one of the alternatives below or your vote will be invalid)

_____ (a) Be legal for adult, 21 years of age and older, recreational or medical use, taxed and regulated like alcohol, with the proceeds from the taxes used for education, healthcare, and infrastructure in Wisconsin?

_____ (b) Be legal for medical purposes only and available only by prescription through a medical dispensary?

_____ (c) Remain a criminally illegal drug as provided under current law?

A list of resources and links to information regarding the legalization of cannabis is available on the Eau Claire County website at <https://www.co.eau-claire.wi.us/government/legislation-resources/cannibis-advisory-referendum>.

Respectfully Submitted,

Keith R. Zehms
Corporation Counsel

Ordinance/18-19.051 Fact

SUBJECT: Discussion and Possible Action Regarding Kreher Park Redevelopment and Campground Expansion Updates (*Parks Director*)

RECOMMENDATION: Discussion and Possible Action

DEPARTMENT OF ORIGIN: Parks and Recreation Director

CLEARANCES: Parks and Recreation Committee

EXHIBITS:

SUMMARY STATEMENT:

City staff is seeking approval from the Council to move forward with the following ideas:

- Consider alternative redevelopment plans for the former superfund site.
- Seek funding to reconstruct the current boat landing at Kreher Park to accommodate bigger boats and gain ADA compliance
- Working with a qualified firm to redesign Kreher Park and expand the camping opportunities

Over the course of the past several years, City staff have been attempting to find enough funding to complete the community's vision to redevelop Kreher Park (the former Superfund site). The City has received \$625,000 toward this redevelopment, which we need a match of \$500,000, creating a total of \$1,125,000 for the project. This past summer (2021), the City asked an engineering and marine construction firm for updated estimates to construct the proposed boat launch at Kreher Park. These estimates came in at \$1,400,000 for the construction of just the boat landing. This cost does not include paving of the parking lot and thoroughfare, or the installation of bioswales or stormwater retention. These additional expenditures are estimated at \$800,000, bringing the total cost of complete redevelopment over \$2,200,000.

At this time, the staff is recommending that instead of building a new boat launch on the former Superfund site, efforts are to be shifted to seek funding to reconstruct the existing boat launch on Prentice Avenue to become ADA compliant and be able to launch large boats (>26' in length). An underwater dive inspection has been done on the current Kreher Park Boat Launch on Prentice Avenue and staff are awaiting the results and cost estimates for reconstruction.

The City recently advertised a request for bids for the paving of the new parking lot and thoroughfare located on the former Superfund site. The parking lot and thoroughfare will serve the current boat launch and whatever redevelopment happens on the former Superfund site and Kreher Park and RV Campground. If the City asphalts this area before December 31, 2021, it will received \$50,000 per an agreement with NSP/Xcel. Funding for this project will come from the 2018 Recreation Boating Facilities grant award of \$500,000. The 50/50 match coming from Marina General Obligation Notes, 2018 Water Fund Development Capital Improvement Projects Funding, and a Sport Fish Restoration grant.

Staff is also seeking the go-ahead to work with a qualified landscape architecture firm to plan and redesign Kreher Park and RV Campground and Prentice Park Campground to provide more camping opportunities. At Kreher Park, the firm would work to create an ADA-compliant bathhouse, update water and electricity at each site, and include measures to improve the water quality at Kreher Park Beach. This would be done with the

hopes that the City Council is in favor of using American Recovery Program Act (ARPA) funds to give tourism opportunities a boost in the City of Ashland by updating the City's campgrounds. The estimated cost for this work is estimated at less than \$15,000 at Kreher Park and less than \$5,000 for Prentice Park.

SUBJECT: Discussion and Possible Action Regarding the City of Ashland's Policy for Acceptance of Donations From Enbridge (*Parks Director*)

RECOMMENDATION: As Council desires

DEPARTMENT OF ORIGIN: Mayor

CLEARANCES: City Administrator
City Attorney

EXHIBITS: 1. Resolution 17547

SUMMARY STATEMENT:

On February 11, 2020, the Ashland Common Council unanimously approved a resolution of support of the efforts of the Bad River Band of Lake Superior Chippewa to remove the Enbridge Line 5 pipeline from the Bad River Watershed. A copy of the Resolution is attached.

Since that time, City staff have been approached by community representatives of Enbridge offering monetary grants from the charitable arm of Enbridge for various City needs. These include turnout equipment (fireproof heavy uniform worn by the firefighters) for the Fire Department, personal body armor and radios for the Police Department, and funding for a new proposed East Side Park. Representatives of Enbridge have informed the City administration that there is \$60,000 earmarked for each project, desired, with no strings attached.

In light of the official Council position taken through the Resolution passed on February 11, 2021, Council is being asked to establish a policy for the acceptance of grant funds by City staff from Enbridge.

RESOLUTION OF SUPPORT OF THE EFFORTS OF THE BAD RIVER BAND OF LAKE SUPERIOR CHIPPEWA TO REMOVE THE ENBRIDGE LINE 5 PIPELINE FROM THE BAD RIVER WATERSHED

WHEREAS tribal nations have sovereign authority over their territory¹, ²; and

WHEREAS the pipeline crosses Bad River tribal land, and traverses the Bad River watershed; and

WHEREAS the Bad River Band has requested the removal of the Enbridge Line 5 pipeline from the Bad River watershed; and

WHEREAS the Bad River ends in the Kakagon-Bad River Sloughs which are some of the most extensive and pristine coastal wetlands of the Great Lakes, supporting rare plants and animals, migratory birds, fish spawning habitat, and manoomin (wild rice) beds³, ⁴; and

WHEREAS during its operational lifetime, Enbridge Line 5 has experienced at least 29 leaks and spills totaling over one million gallons of oil and natural gas liquids released into the environment⁵; and

WHEREAS an oil spill in the Bad River watershed could irreparably damage natural and cultural resources of the region; and

WHEREAS, the City of Ashland and the Bad River Band of Lake Superior Chippewa have shared and interdependent communities and economies that would further bear the costs of a pipeline failure.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Ashland resolves to support the efforts of the Bad River Band of Lake Superior Chippewa to remove the Enbridge Line 5 pipeline from the Bad River watershed.

¹ Executive Order #18 "Relating to an Affirmation of the Intergovernmental Relationships Among the State of Wisconsin and Tribal Nations Located Within the State", Governor Tony Evers.

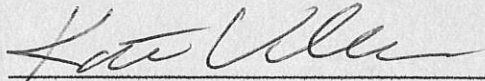
²<https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=88&Issue=5&ArticleID=24068>

³ <https://dnr.wi.gov/files/PDF/pubs/er/ER0803.pdf>

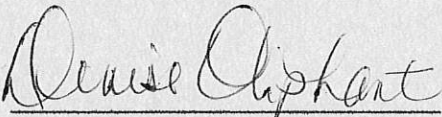
⁴ <https://www.wisconsinwetlands.org/wp-content/uploads/2015/06/Kakagon-Bad-River-Sloughs.pdf>

⁵ <https://www.nwf.org/en/Latest-News/Press-Releases/2017/4-24-17-Line-5-Oil-Pipeline-System-Spanning-Michigan-Has-Had-29-Known-Spills>

PASSED: February 11, 2020



Councilperson

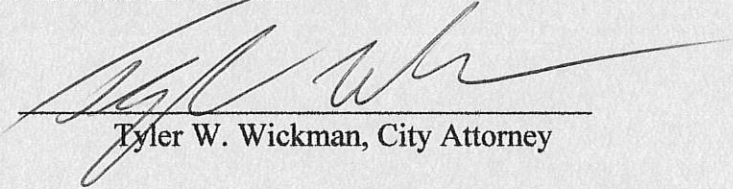
ATTEST: 

Denise Oliphant, City Clerk



Debra S. Lewis, Mayor

APPROVED AS TO FORM:



Tyler W. Wickman, City Attorney