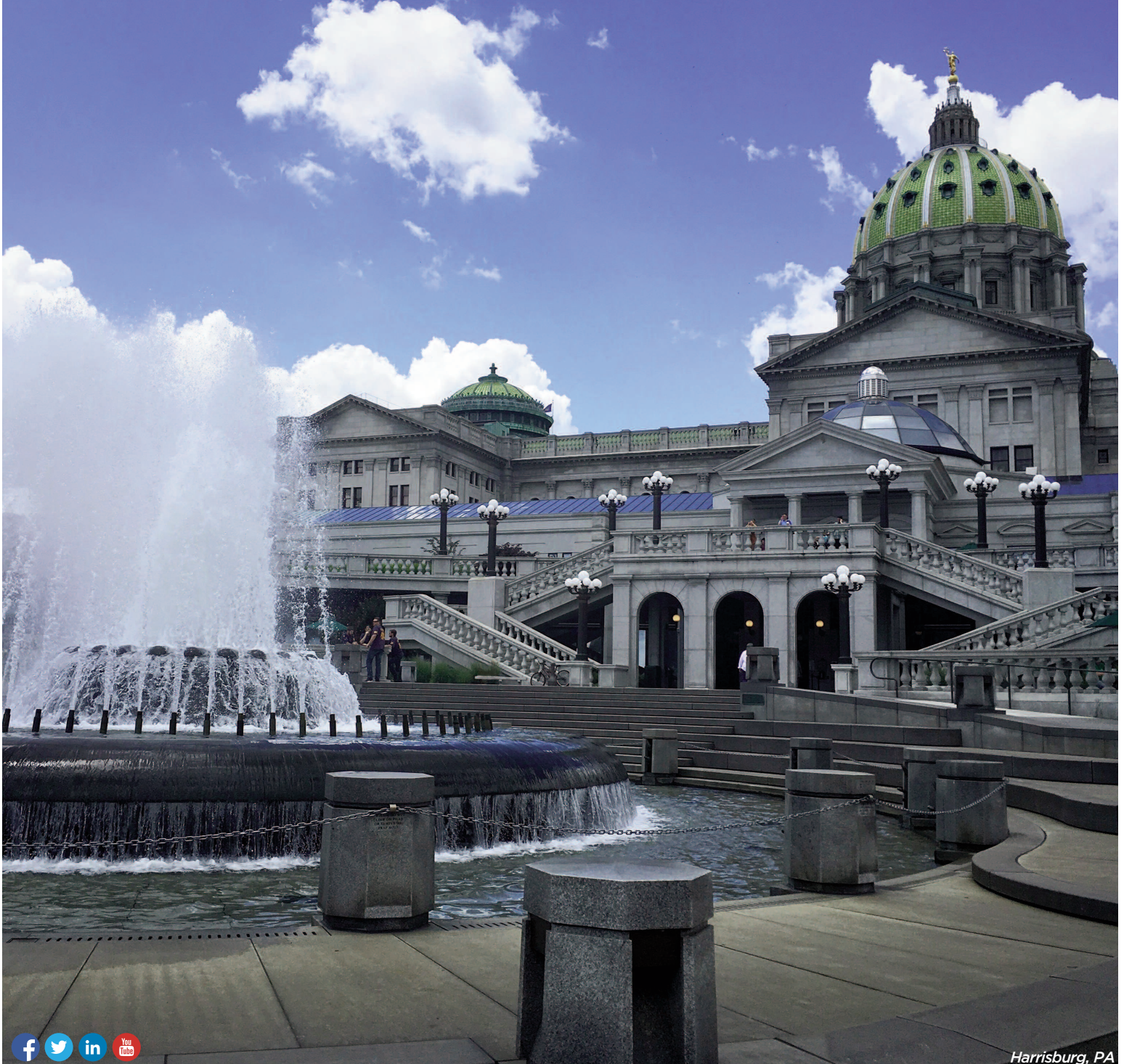


MANUAL FOR MUNICIPAL SECRETARIES

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Comments or inquiries on the subject matter of this publication should be addressed to:

Governor's Center for Local Government Services
Department of Community and Economic Development
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120-0225

(717) 787-8158
1-888-223-6837
E-mail: ra-dcedclgs@pa.gov
dced.pa.gov

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I. Office of the Secretary

This manual deals with the office of secretary in boroughs and townships and the office of city clerk in third class cities. The roles and responsibilities for each of these offices are very similar. For municipalities operating under home rule charters, optional plans, and optional third class city charters, the role of secretary can be considerably different and secretaries in such communities should be careful to learn the difference between their municipality's charter and state law for their class of municipality.

Role of Municipal Government

The General Assembly, Pennsylvania's state legislature, created different types of local governments and gave each specific responsibilities and the authority to carry out these responsibilities.

In Pennsylvania, every citizen lives in a school district, a county, and a municipality. School districts are charged with providing basic education. The county is charged with elections, social services, the court system, prisons, and property assessment. The county also performs emergency management, including 911 center operation, and land use planning. Some counties own bridges or roads and many own and operate parks.

Municipalities, which include boroughs, cities, home rule municipalities, a town, and townships of the first and second class, are primarily responsible for public infrastructure, including roads and bridges, sidewalks, and sewer and water systems. Municipalities are also the primary providers of public safety services, including emergency management and response, and police, fire, and ambulance service.

Municipalities are responsible for enforcing state environmental protection regulations through sewage management, as well as stormwater runoff and floodplain management. Many municipalities elect to provide trash collection and recycling services for their residents.

Municipalities can plan how and where it wants to grow and develop into the future through a comprehensive plan and administer and enforce this plan through its subdivision and land development and zoning ordinances. Municipalities can improve the attractiveness of their community through property maintenance regulations and control of nuisances, and provide for the quality of life for their citizens through recreational opportunities, such as parks and playgrounds, and educational and cultural activities, such as libraries, fairs and festivals, and concerts.

The Intergovernmental Cooperation Act authorizes local governments to cooperate to provide a service jointly. Many municipalities work with other municipalities, the county, or their school district to provide better services to their residents or reduce the cost of these services. Frequently cited examples of cooperation include joint purchasing, road maintenance, code enforcement, police services, and recreation.

Types of Municipalities

Each type of municipality is created by a municipal code, which contains the form of government, delegates certain mandatory responsibilities to that municipality, and provides municipal officials with the authority to offer optional services and to enact certain regulations. Municipal clerks and secretaries need to become familiar with their municipal code as it provides the rules that they, and their municipality, must follow.

Copies of the municipal codes are provided to municipalities by the Local Government Commission and can be obtained from your state senator. The municipal codes are also available online at dced.pa.gov, by choosing "Local Government" and then "Local Government Law and Resource Library."

Boroughs. Boroughs operate under the Borough Code, which was codified in 2014 into Title 8 (*Boroughs and Incorporated Town*) of the Pennsylvania Consolidated Statutes. The borough council is the governing body, which appoints the borough secretary and establishes the compensation for this position.¹ The borough secretary serves the borough council and is required to attend all council meetings and maintain minutes of its proceedings. The borough secretary may also be the manager, street commissioner, treasurer, or chief of police,² but may not be a member of council, the mayor, the district magistrate,³ or a member of the civil service commission.⁴

Cities. Third class cities operate under the Third Class City Code. City council is the governing body which appoints the city clerk, sets their compensation, and may by ordinance or resolution prescribe duties of the clerk in addition to those established by law.⁵ The city clerk serves the city council and has the power of a notary public to administer oaths in any matter pertaining to the business of the city or in any legal proceeding in which the city is interested.⁶ The city clerk is given custody of the records of council. The city clerk may not serve as a member of council,⁷ the board of health,⁸ or the civil service commission.⁹

Townships of the first class. Townships of the first class operate under the First Class Township Code. The board of commissioners is the governing body, which appoints the township secretary, sets their salary by ordinance or resolution, and may establish duties for the office.¹⁰ The township secretary serves the board and is the official keeper of minutes and records. The secretary cannot be a member of the board of commissioners or a member of the civil service commission.¹¹

Townships of the Second Class. Townships of the second class operate under the Second Class Township Code. The board of supervisors is the governing body, which appoints the township secretary and sets the compensation for the office. The secretary serves the board and may also serve as treasurer or manager.¹² The secretary may be a member of the board of supervisors, but if so, compensation is established by the board of elected auditors.¹³

Home Rule. Home rule municipalities operate under home rule charters, optional plans, and optional third class city charters. In these municipalities, the secretary should initially refer to their charter or plan for the duties and responsibilities of the secretary.

Office of Municipal Secretary

City clerks and municipal secretaries play an important role in their municipalities. As a public officer, municipal secretaries occupy a position of trust and responsibility with powers and duties that are defined by their respective municipal codes, general municipal law, and local policy. While differences exist between types of municipality, as well as the expectation of the governing body, clerks and secretaries perform many similar functions across the state. It is important to spend time learning about this role.

Qualifications. There are currently no qualifications in state law for the office of municipal secretary. Instead, each governing body determines the qualifications for this office based on the creating ordinance or resolution or job description for the position. Residency is a common, but not universal, local requirement.

Compatible and Incompatible Offices. The state legislature has declared some offices to be compatible with the office of municipal secretary, while others are determined to be incompatible. Secretaries and clerks may be a member of the municipal planning commission¹⁴ or serve as zoning officer.¹⁵ However, secretaries and clerks may not be members of the zoning hearing board.¹⁶

Appointment. Secretaries are appointed by the governing body of their municipality and serve at the pleasure of the governing body. Secretaries in second class townships are reappointed at each organization meeting.

Oath of Office. Before performing the duties of office, municipal clerks and secretaries must take an oath of office and keep it on file at the municipal office. The oath must contain standard language established by Act 76 of 2008 for such oaths.

Bond. State law does not specifically require municipal secretaries to be bonded. The municipal codes give the governing body discretion to require a bond. Bonding is necessary when the secretary handles public funds.

Conflicts of Interest. Municipal clerks and secretaries must carefully avoid conflicts between their private interests and their role as a municipal official. The Public Officials and Employees Ethics Act¹⁷ prohibits public officials and employees, including municipal secretaries, from committing a conflict of interest. A conflict of interest is the use by a public official or public employee of the authority of their position, or any confidential information received through their position, for the private financial benefit of themselves, a member of their immediate family or a business with which they, or a member of their immediate family, is associated. In other words, municipal officials are prohibited from using their office to financially benefit themselves. The Ethics Act defines “immediate family” as a “parent, spouse, child, brother, or sister.” Alleged violations of the act should be referred to the State Ethics Commission for investigation.

The Ethics Act requires public officials and employees, including municipal secretaries, to file annual financial interest statements by May 1 on forms provided by the State Ethics Commission. This form must be completed for each year in office and for one year after leaving office. These statements are filed with the municipal secretary and are open to public inspection on demand.

In addition, the Ethics Act prohibits public officials and employees from having any personal interest in contracts and purchases. Under the Ethics Act, public officials and employees are prohibited from entering into any contract valued at \$500 or more with their municipality unless the contract is awarded through a sealed bid process, including public notice. This prohibition also applies to any subcontract valued at \$500 or more with any person who has been awarded a contract with the municipality, unless the contract is awarded through a sealed bid process.

For more information regarding the State Ethics Act, contact the State Ethics Commission at ethics.pa.gov or call toll-free 1-800-932-0936.

Dismissal from Office. Municipal secretaries are at-will employees who serve at the will of the governing body. As such, they may be dismissed by the governing body for any reason and at any time. Unless the termination is for cause, the former secretary may apply for unemployment.

Responsibilities

The secretary’s responsibilities include those that are mandated by state law or ordinance, such as to record and preserve the minute and ordinance books, file the oaths of public officers, and submit reports to state agencies. Some secretaries exercise only those mandated duties and routine clerical duties, while others have been given additional administrative or even management responsibilities. Some secretaries are also given responsibilities that require them to exercise independent judgment, such as issuing permits. Governing bodies often rely on their experienced secretaries for recommendations, guidance, and even drafting of documents.

Secretaries and clerks should only make and carry out decisions that are clearly within the authority given by the governing body. The secretary should obtain prior approval for proposed actions wherever possible. If a written job description has been approved for the secretary, their decision-making responsibility should be described in this document.

Serving the Governing Body

Municipal clerks and secretaries serve at the pleasure of the appointing governing body. With this said, conflicts can arise if a member or members of the governing body gives orders to the city clerk or municipal secretary between meetings. The issue is compounded if the orders contradict direction provided by the full board or council. If placed in this position, it is best to ask the board or council for a clear chain of command by board action and to make it clear who is responsible for what functions and who the secretary should consult on different issues.

Sometimes who the secretary should answer to becomes muddled when the makeup of the board changes. At this point, it is best to revisit the issue and provide the governing body with an opportunity to review the existing policy so that all parties are clear and conflicts can be avoided.

Assistant Secretary

The Borough Code, First Class Township Code, and Second Class Township Code authorize the governing body to appoint an assistant secretary by resolution.¹⁸ Assistant secretaries temporarily perform the duties of the office in the absence or disability of the secretary.

The First Class Township Code authorizes the assistant secretary to be a member of the board of commissioners, but not an officer. If the assistant secretary is a township commissioner, they are prohibited from receiving any compensation for the position of assistant secretary.

The Borough Code authorizes the assistant secretary to be a member of council, but not an officer. The assistant secretary may also serve as assistant treasurer, unless they are a member of council.

The Second Class Township Code authorizes the board of supervisors to appoint and establish the compensation of an assistant secretary. The assistant secretary may be a township supervisor, and if so, the compensation is fixed by the board of auditors. The assistant secretary may also serve as assistant treasurer.

REFERENCES

1. 8 Pa. C.S.A. 1101, 1111; Borough Code, Section 1101, 1111.
2. 8 Pa. C.S.A. 1143; Borough Code, Section 1143.
3. 8 Pa. C.S.A. 1104; Borough Code, Section 1104.
4. 8 Pa. C.S.A. 1173; Borough Code, Section 1173.
5. 53 P.S. 35902; Third Class City Code, Section 902.
6. 53 P.S. 36016.1; Third Class City Code, Section 1016.1.
7. 53 PS 36001; Third Class City Code, Section 1001.
8. 53 P.S. 37301; Third Class City Code, Section 2301.
9. 53 P.S. 39403; Third Class City Code, Section 4403.
10. 53 P.S. 55901; First Class Township Code, Section 901.
11. 53 P.S. 55627; First Class Township Code, Section 627.
12. 53 P.S. 65801-65803; Second Class Township Code, Section 801-803.
13. 53 P.S. 65602; Second Class Township Code, Section 602.
14. 53 P.S. 10202; Pennsylvania Municipalities Planning Code, Section 202.
15. 53 P.S. 10614; Pennsylvania Municipalities Planning Code, Section 614.
16. 53 P.S. 10903; Pennsylvania Municipalities Planning Code, Section 903.
17. 65 Pa.C.S.A. 1102-1104; Ethics Standards and Financial Disclosure, Sections 1102-1104.
18. 8 Pa. CS.A. 1112; Borough Code, Section 1112; 53 P.S. 55901.1; First Class Township Code, Section 901.1; 53 P.S. 65804; Second Class Township Code, Section 804.

II. State Agencies: Required Filings and Resources

The municipal secretary has frequent interaction with state offices. State laws and regulations require municipalities to perform certain roles and responsibilities and it is often the role of the municipal secretary to ensure these duties are performed and to provide required reports and certifications to various state agencies.

Many state agencies provide a host of services to assist municipal officials. Municipal clerks and secretaries should learn not only what reports must be filed, when they must be filed, and to whom, but they also need to learn what services different state agencies provide and use these resources to benefit their municipality, which include technical and financial assistance. Creating and maintaining key contacts at the state level can make day-to-day duties easier and enhance a secretary's value to their governing body.

Department of Community and Economic Development

DCED has a primary responsibility to work with local governments. DCED is not only the main repository for municipal reports and certifications, but also offers many services and programs for local government. The Governor's Center for Local Government Services provides technical assistance and training on a wide range of municipal issues, including auditing, finance, land use and community planning, floodplain management, tax collection, public safety, and intergovernmental cooperation. DCED also reviews local government debt filings, receives municipal fire escrow ordinances, and provides financial assistance through a variety of programs. For more information about DCED and the services it provides, go to dced.pa.gov and choose "Local Government" or call 1-888-223-6837.

All municipalities must file the following annual reports electronically with DCED, which are often the responsibility of the municipal secretary.

Annual Audits and Financial Reports. Annual audit reports must be filed by all municipalities with DCED within 90 days after the close of the fiscal year.¹ Secretaries ensure that this form is filed after the auditors have completed and signed the audit report, except in cities of the third class, where it is the responsibility of the chief fiscal officer.

Survey of Financial Condition. The Municipalities Financial Recovery Act requires each municipality to file a completed survey of financial condition to DCED on or before March 15 of each year.² The report applies to the municipality's prior fiscal year and contains questions to alert the department to the possibility of municipal financial distress. The survey form must be signed by the presiding officer of the governing body. In order for a municipality to receive its liquid fuels distribution by March 1, this form must be submitted to DCED by early February so that the Department of Transportation can process all required forms.

Municipality Report of Elected and Appointed Officials. By January 31, the secretary must report the names and official addresses of elected and appointed municipal officials to DCED on the *Municipality Report of Elected and Appointed Officials*.³ Changes in officeholders must be reported to the DCED as vacancies are filled.

Municipal Tax Information Form. DCED maintains an annual register listing the municipalities and school districts that levy the earned income tax and the local services tax and the rates at which these taxes are levied. Employers are required to withhold only those earned income and local services taxes listed in the register. DCED must be notified by December 1 of each year of any new tax levy, repeals, or changes.⁴ Secretaries are required to file copies of all tax-levying ordinances or resolutions with DCED within fifteen days of taking effect.⁵

Quarterly Building Code Reports. Every municipality that has opted to enforce the Uniform Construction Code⁶ must file a quarterly report on building permit activity and collect and submit a \$4 per permit fee for every building permit issued by the building code official for construction activity regulated by the UCC. This report must be filed quarterly even if no construction activity has taken place for that particular quarter. Either the building code official or the municipal secretary may file this report.

Municipal Borrowing. Before obtaining any debt, such as notes and bonds, in excess of \$125,000, or 30 percent of the borrowing base, whichever is less, all municipalities must file for DCED approval.⁷ DCED examines the filings for compliance with the debt limit and required procedures. A certified copy of the ordinance and proof of publication must be filed with DCED. For more information on debt, go to dced.pa.gov and choose “Local Government.”

Boundary Change. The secretary is required to report any annexation proceedings to DCED within ten days after its effective date. The report must include a plot or plots of the territory affected and copies of petitions and certified election results of questions approved by the voters.⁸

Floodplain Regulations. DCED oversees the coordination and enforcement of local floodplain management regulations and provides technical assistance on preparation, adoption, and administration of regulations necessary under the National Flood Insurance Program Act and the Pennsylvania Floodplain Management Act.⁹

Department of Transportation

The Pennsylvania Department of Transportation, through its Bureau of Planning and Research, is a key resource for issues relating to local roads, bridges, safety, and traffic control. Municipal secretaries and the road or public works department frequently interact with PennDOT personnel. The Bureau advises municipalities on construction, alteration, and maintenance of bridges and highways and provides information on related rules and regulations. PennDOT administers a variety of grant and assistance programs, including traffic signals, bridges, and other road projects.

The state provides funding through highway user fees that are allocated to all municipalities annually and must be used for road maintenance and construction. These funds are called liquid fuels and are an important source of road funding.¹⁰ Liquid fuels funds must be maintained in separate accounts, may only be spent on a very specific set of expenses, and are audited by the Auditor General. Projects paid for in whole or in part by state funds must be preapproved by the PennDOT. Some townships have turnback roads, which are former state roads that were turned back to the township by mutual agreement and which the state funds through an annual per-mile maintenance payment, separate from liquid fuels.

Municipalities must comply with several requirements to qualify for the annual liquid fuels allocation, which is distributed March 1. The following reports are due to PennDOT by January 31. The preferred filing method is electronic through the dotGrants system. Failure to file these forms will result in a delay in the municipality’s liquid fuels distribution.

Actual Use Report of State Funds. The Actual Use Report of State Funds includes a summary of expenditures from the Record of Checks form; prior year ending balances, receipts, expenditures, and ending balances for the year being reported; information necessary to assure major equipment purchases do not exceed 20 percent of the annual allocation and to verify any carryover of the unused equipment allocation; the municipal planned use report for the next fiscal year; a detailed report on miscellaneous receipts; and certification of bonding for the municipal treasurer.

Record of Checks State Fund Account – Projects and Additional Refunds. This report is used to report construction, reconstruction, and resurfacing projects, as well as Agility agreement projects performed for PennDOT.

Record of Checks State Fund Account. The Record of Checks report records all checks issued in check number sequence from the State Fund checking account. The following information must be provided for each check issued: payee, project number, net amount of check, check number and date, budget item number, and total amount distributed.

In addition, the following reports are required in order to receive timely liquid fuels payments:

Municipality Report of Elected and Appointed Officials. By January 31, the secretary must report the names and official addresses of elected and appointed municipal officials to DCED on the *Municipality Report of Elected and Appointed Officials* as previously noted in this chapter.

Survey of Financial Condition. In order to receive the annual liquid fuels allocation by March 1, the Survey of Financial Condition must be filed with DCED by early February of each year, as previously noted in this chapter.

Certification of Street Mileage. Annual local allocations of liquid fuels funds are determined by a formula based 50 percent on the mileage of official streets and roads and 50 percent on population. Streets and roads having a right-of-way width of at least 16 feet in cities and boroughs, and 33 feet in townships (*may be 24 feet in townships of the first class in certain situations*) qualify for mileage. In addition, all qualifying mileage must have the capacity to be traveled safely at 15 mph, must be accessible from an existing public street or roadway, and must have a minimum length of 250 feet and a cul-de-sac radius of at least 40 feet if a dead-end road. PennDOT recognizes only those streets or roads officially adopted, as evidenced by ordinances or resolutions that certify that the street or road has been recorded.

Secretaries are responsible for notifying PennDOT when streets or roads are added or deleted. These reports may be submitted at any time during the year, but will be included in the mileage for the following year's allocation only if PennDOT receives the reports by September 1. The municipality must submit to PennDOT: a copy of the ordinance or resolution approved by the governing body to adopt the road as a public road, a copy of the plot plan showing the road location, and proof that the ordinance or resolution has been recorded in the county courthouse with the clerk of courts or appropriate county office that shows the court seal, page, and document number where recorded. A deed of dedication for the road must be on file with the municipality.

For more information about liquid fuels requirements, see PennDOT Publication #9, "*Policies and Procedures for the Administration of the Liquid Fuels Tax Act 655*," which can be found online at penndot.gov.

Department of Environmental Protection

Secretaries interact with the Department of Environmental Protection due to state environmental laws and regulations for issues including sewer and sewage, water, stormwater, solid waste, and recycling. DEP oversees these programs, some of which municipalities are charged with administering.

Sewer and Sewage. The Pennsylvania Sewage Facilities Act requires municipalities to develop and implement sewage management planning and regulation for community and individual sewage disposal systems.¹¹ The Act requires municipalities to submit plans for sewage management and appoint a sewage enforcement officer and an alternate sewage enforcement officer to issue permits for the installation of sewage systems and inspect malfunctioning systems. All municipalities with onlot septic systems must file an Act 537 Annual Report with DEP.

Many municipalities operate sewer systems on behalf of their residents. These systems require the municipality to obtain permits and submit reports to DEP on the operation of the system.

For more information about municipal sewage management responsibilities, go to dep.pa.gov, choose "Water," then "Bureau of Point and Non-point Source Management," and finally "Wastewater Management."

Recycling. The Municipal Waste Planning, Recycling and Waste Reduction Act requires municipalities with populations over 10,000, and those municipalities with populations of 5,000 or more that have a population density of 300 persons per square mile, to implement a local recycling program by ordinance.¹² The ordinance must designate at least three materials from a list of eight that residents must separate for curbside collection. Leaf waste must also be separated from the waste stream. In addition, the act requires each municipality to develop and implement a comprehensive public information program on recycling and waste reduction. DEP administers this program and secretaries may need to file or assist with reports on recycling numbers.

DEP administers grant programs to assist with the costs of municipal recycling programs. Section 902 grants reimburse municipalities for 90 percent of eligible recycling program development and implementation expense. Act 904 grants are available to all Pennsylvania local governments with recycling programs and are based on the total tons recycled and the applicant's recycling rate.

For more information about municipal recycling responsibilities, go to dep.pa.gov, choose "Waste," then "Recycling."

Stormwater Management. The Storm Water Management Act requires municipal administration and management of stormwater runoff resulting from land development.¹³ Under the act, counties must develop stormwater management plans for specific watersheds, which are subject to approval by DEP. Once approved, municipalities must adopt or amend their stormwater ordinances within six months, including land use regulations, to implement the county plan. Municipal secretaries are often involved with the administration of the act, usually as part of their land use responsibilities.

MS4s. The Pennsylvania Department of Environmental Protection administers the stormwater requirements of the federal Clean Water Act. Under this program, municipalities that meet certain standards must obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for stormwater discharges from their municipal separate storm sewer systems (MS4s). MS4s are any conveyance or system of conveyances (*including, but not limited to, streets, ditches, and pipes*) that a municipality owns and is designed or used for collecting or conveying stormwater. Many municipalities are currently considered MS4s and must develop and implement stormwater management plans to minimize the impacts from runoff and submit reports to DEP on their annual progress.

For more information about municipal stormwater responsibilities, go to dep.pa.gov, choose “Water,” then “Bureau of Point and Non-point Source Management,” and choose “Stormwater Management.”

Other Required Annual State Filings

In addition to the filings mentioned above, all municipal secretaries should be aware of the following required state filings:

Department of Revenue. Each municipality must file an annual report with the state Department of Revenue by April 1 in order to qualify for a Public Utility Realty Tax Act revenue distribution in October.¹⁴ The form is the RCT-900, which can be filed online at www.purta.state.pa.us.

Public Utility Commission. The Public Utility Commission administers the natural gas impact fee distributions that are made to municipalities located in a county where unconventional natural gas wells have been recently drilled. Municipalities that receive these funds established by Act 13 of 2012 must file the following reports each year. These forms may be filed electronically or with forms that are available at www.puc.state.pa.us, by choosing “Natural Gas” at the bottom of the page and then “Act 13.”

- **Municipality Approved Budget Form.** This report is due March 1 and includes the total final budget for a prior budget year.
- **Local Government Unconventional Gas Well Fund Usage Reports.** This form is due April 15 and requires municipalities to report on the usage of the funds received from the prior year in 13 allowable categories.

Pennsylvania Employee Retirement Commission. Municipalities with pension plans are required to file an Act 205 of 1984 Questionnaire and Reporting Form Request with the Pennsylvania Employee Retirement Commission every odd-numbered year.

State Ethics Commission. The Ethics Act requires public officials and employees, including municipal secretaries, to file annual financial interest statements on forms provided by the State Ethics Commission by May 1 of each year in office and for one year after leaving office. This includes both elected and most appointed officials. These statements are filed with the municipal secretary and are open to public inspection on demand. In many municipalities, the secretary is expected to distribute, collect, and retain these report forms. It is the individual public official's duty to file this form with the secretary.

Other State Agencies

Township secretaries will have contacts with other state agencies on an ongoing basis.

The **Auditor General's Office** audits liquid fuels funds, state aid pension funds, and volunteer firefighter's relief funds. The **Pennsylvania Historical and Museum Commission** developed the municipal records retention schedule which municipalities must follow and certifies historic district ordinances before enactment by the municipal governing body. The **Department of Health** provides annual grants to eligible municipal health departments to operate public health programs.

Department of Labor and Industry. The Department of Labor and Industry administers the workers' compensation program, the Uniform Construction Code, and the unemployment compensation program. L&I also oversees state and federal labor laws, including the Prevailing Wage Act.

The Uniform Construction Code requires most new and altered structures to comply with its standards.¹⁵ While administration and enforcement of the UCC is voluntary, most municipalities have opted into the program. The UCC must be followed in all municipalities, regardless of whether a municipality has chosen to enforce the law.

The UCC requires building inspectors to be certified by the Department of Labor and Industry. The municipality must ensure that its inspectors, whether municipal employees or a third party agency, are properly certified and are enforcing the act's provisions.

REFERENCES

1. 53 P.S. 36812; Third Class City Code, Section 1812; 8 Pa. C.S.A. 1059.1(b.1); Borough Code, Section 1059(b.1); 53 P.S. 56003; First Class Township Code, Section 1003; 53 P.S. 65904; Second Class Township Code, Section 904.
2. 53 P.S. 11701.123; Municipalities Financial Recovery Act.
3. 71 P.S. 966.2; 1966 P.L. 1902.
4. 53 PS 6924.511; Local Tax Enabling Act.
5. 71 P.S. 965; 1966 P.L. 1902.
6. 35 P.S. 7210.101 et. seq.; Uniform Construction Code.
7. 8 Pa. C.S.A. 8001 et seq.; Local Government Unit Debt Act.
8. 71 P.S. 966.5; 1967 P.L. 351, Section 5.
9. 32 P.S. 679.101; Flood Plain Management Act.
10. 72 P.S. 2615.1 to 2615.10; Act 655 of 1956.
11. 35 P.S. 750.1; Pennsylvania Sewage Facilities Act.
12. 53 P.S. 4000. 1501; Municipal Waste Planning, Recycling and Waste Reduction Act; 1988 P.L. 566, No. 101.
13. 32 P. S. 680.1; Storm Water Management Act.
14. 72 PS 8101-A and 8106-A, Tax Reform Code of 1971.
15. 35 P.S. 7210.101 et. seq.; Uniform Construction Code.

III. Working With Local Governments

Municipal secretaries frequently interact with other local governments. In many cases beneficial cooperative relationships have been formed with other entities to benefit residents through a wider variety of services than a municipality could provide on its own or to reduce the cost of services.

County Government

Municipal secretaries interact with a variety of county offices on a regular basis and are required to file certain documents with the county. In many cases, the county can provide technical, and sometimes financial assistance, for municipal projects and planning.

County Highway Aid. Counties can grant some or all of their liquid fuels allocations to municipalities within the county. Secretaries submit applications for this assistance to the county on forms provided by PennDOT.

Office of Elections. Prior to the primary election in a municipal election year, the municipal secretary must notify the election board of all local offices that need to be filled.¹ This includes elections to fill vacancies in office for shorter terms.

The secretary is required to file resolutions or ordinances approved by the governing body that would place referendum questions before the voters with the county board of elections. The authorized questions and filing requirements can be found in DCED's *Referendum Handbook*.

Conservation District. Local conservation districts administer a variety of soil and water conservation programs and provide assistance for many issues of interest to municipalities, such as agricultural land preservation, dirt and gravel roads programs, and stormwater management. Conservation districts may administer programs on behalf of the Department of Environmental Protection and the State Conservation Commission.

Planning Office. County planning offices review proposed subdivision and land development plans as well as proposed land use ordinances prior to adoption or amendment by the municipality. In addition, many county planning offices provide technical assistance on planning, transportation studies, and development of land use ordinances and maps.

Emergency Management. Emergency management planning is an important function of municipalities and the county. The county emergency management office is responsible for emergency planning and response at the county level and may provide assistance for planning at the municipal level. The county operates the 911 centers.

Every municipality must adopt an emergency management plan and keep it updated. The governing body nominates an EMC, the secretary files the nominating papers with the county emergency management office, and the governor appoints the municipal EMC.² The EMC must take required training courses through the county emergency management agency. During emergency events, municipalities are required to operate under the National Incident Management System (NIMS) which standardized incident management operations across the United States.

The Emergency Management Handbook for Elected Officials, available from the Pennsylvania Emergency Management Agency, is a good resource for municipalities and can be found at www.pema.pa.gov, under "Forms and Documents" and then "Plans, Guides and Presentations."

Court-Related Offices. Most interactions between the municipality and the courts and their offices are handled through the municipal solicitor, but in some places the secretary plays a role. Auditors must file a copy of the annual financial report with the clerk of courts or the prothonotary not later than 90 days after the close of the fiscal year.³ Although this is a duty of the auditors, the secretary may assist with the filing.

Municipal claims for unpaid assessments for improvements to streets, sidewalks, sewers, or water lines are filed in the prothonotary's office.⁴ Any municipality that has municipal claims against any property returned to the county tax claim bureau must certify the claim by August 30 of the year of the sale.⁵ The amount is then included in the upset price. If the municipal claim is not certified and the property is sold, the claim will be divested by the sale.

Secretaries or solicitors contact the recorder of deeds regarding municipal property owned, bought, or sold. Often the recorder of deeds office is used to identify local property owners concerning taxes, abandoned land, street, curb and sidewalk improvements, and eminent domain proceedings. Private development plans finally approved by the local governing body must be certified by the secretary before filing with the recorder of deeds.⁶

Intergovernmental Cooperation

Intergovernmental cooperation enables local officials to voluntarily work together to solve regional problems while maintaining their individual identities. The Intergovernmental Cooperation Act⁷ permits local governments to work together to provide any service or facility that they may provide on their own.

Across the state, municipalities have found many ways to work together to provide better municipal services at a lower cost. Whether through a formal or informal agreement, following are examples of opportunities for intergovernmental cooperation:

Roads. Road maintenance is a primary responsibility for municipalities. Joint purchasing of salt, anti-skid, or road signs is efficient and easy. Joint purchases of large, specialized, and seldom-used pieces of equipment or jointly entering into contracts guaranteeing minimum hours of rent to use such equipment are common. Street sweepers, graders, pavers, rollers, loaders, and backhoes are types of equipment which municipalities might find hard to justify if only used for a few hours a year. Road construction and paving projects using joint crews are another option for municipalities committed to providing the best service at the least cost.

Formal written agreements define each municipality's responsibilities, from who pays for maintenance, to what happens if the machine is damaged, and can help preserve good working relationships between communities, particularly when elected officials or personnel change.

Police Services. Because of the high cost of providing local police service, there is interest across the state in the creation of regional police agencies that serve two or more municipalities. These larger forces provide 24-hour coverage, develop specialties within the police force, and offer better use of equipment and staff.

Parks and Recreation. There is always a population which needs and desires recreation programs, but there may not be a large enough target population to support two sessions of the same activity in adjoining communities. Joint recreation programs with other municipalities and school districts can offer a broad array of programs, often at a lower cost, while meeting minimum participation rates and eliminating duplicative efforts.

Building Codes. Administration and enforcement of the Uniform Construction Code requires experienced and well-trained inspectors, who may not be available on a part-time basis. Smaller municipalities may find hiring third party agencies to be difficult without combining the resources and activity of two or more communities. Code enforcement has been a successful intergovernmental cooperation effort in many areas of the state.

Land Use. The Pennsylvania Municipalities Planning Code authorizes municipalities to cooperate on land use issues, such as multimunicipal planning, where two or more municipalities can work together to create a multimunicipal comprehensive plan. The participating municipalities base their land use ordinances on the plan. The advantages of multimunicipal planning are that municipalities can pool resources to develop the plan, which can be a costly. In addition, the MPC authorizes participating municipalities to provide for every use within the area of the multimunicipal plan, while a municipality adopting an individual comprehensive plan must provide for every use within its borders.

Council of Governments

A council of governments is a voluntary association of local government units joined together under a written compact to improve cooperation, coordination, and planning. The COG provides a more formal entity for cooperation and is authorized by the Intergovernmental Cooperation Act.⁸ Often COGs are formed when communities have had several successful cooperative efforts and would like to build upon these successes.

A COG is an informal council of participating local governments. Local governments may join and withdraw at will. They often engage in a wide variety of activities, such as joint purchasing, UCC administration and enforcement, and regional recreation. After creation, they are relatively easy to maintain and operate. Most councils act as a forum to discuss and act on regional problems and opportunities.

Municipal Authorities

Municipalities may form municipal authorities for certain purposes.⁹ Local governments create authorities and appoint its board members. However, authorities are independent agencies that may incur debt, own property, and finance its activities through user charges or lease rentals.

The main purpose of an authority is to raise money for specified projects. The borrowing capacity depends on its ability to be self-supporting. Generally, authorities finance revenue-producing projects such as sewer and water facilities and solid waste disposal systems. The revenues generated by a project must be sufficient to operate the project, meet all debt obligations, and provide for reserve maintenance funds.

Forming a Municipal Authority. An authority can be formed by any municipality or school district by ordinance. In addition, two or more municipalities may join together to form a joint authority, which is a form of intergovernmental cooperation. Joint authorities are often used when major capital investments are required and community need extends beyond municipal boundaries. Joint authorities have been formed for such purposes as sewage treatment, water supply, and swimming pools.

Municipal authorities are governed by a board whose members are appointed by the municipality or municipalities that created it. Authority boards must have at least five members and boards of joint authorities should have at least one representative from each participating municipality. The term of office is five years and board members may serve more than one term.

Terminating a Municipal Authority. An authority may be terminated after all its debt has been paid off. The authority may transfer its project to the municipality that created it and be disbanded after all debt has been paid. Each authority terminates after 50 years, unless its lifespan has been extended by amending its articles of incorporation.

REFERENCES

1. 25 P.S. 2864; Election Code, Section 904.
2. 35 Pa.C.S.A. 7502; Emergency Management Services Code, Section 7502.
3. 53 P.S. 36705; Third Class City Code, Section 1705; 8 Pa.C.S.A. Section 1059.1(b.1); Borough Code, Section 1059.1(b.1); 53 P.S. 56003; First Class Township Code, Section 1003; 53 P.S. 65907(b); Second Class Township Code, Section 907(b).
4. 53 P.S. 7106; Municipal Claims and Liens Act, Section 3.
5. 72 P.S. 5860.605; Real Estate Tax Sale Law, Section 605.
6. 53 P.S. 10711(d); Pennsylvania Municipalities Planning Code, Section 711(d).
7. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
8. 53 Pa.C.S.A. 2301; Area Government and Intergovernmental Cooperation.
9. 53 P.S. 303; Municipality Authorities Act, Section 3.

IV. Preparing for Meetings

Municipal secretaries prepare for regular and special meetings of the governing body. This includes publishing notices, gathering materials for members, and preparing and distributing the agenda and meeting packet. During the meeting, the secretary presents written minutes of the previous meeting, records attendance, takes minutes, reads communications, presents resolutions or ordinances, and supplies various reports. The secretary serves as a resource to the governing body during the meeting and may assist during discussions.

While only the Borough Code states that the secretary must attend all meetings of the borough council,¹ all boards and councils require attendance at these meetings as a primary function of the positions of municipal clerk and secretary, as well as other meetings that the board or council may require. Often the secretary will attend on behalf of, or be appointed to represent, the board or council at meetings of other bodies, such as councils of government, authority boards, and tax collection committees.

Advance Preparations

Meetings of governing bodies are most productive when careful preparations are made and most of this responsibility rests with the secretary. The secretary acts as the aide and recorder for the governing body. Although much activity may be compressed into the day or two before the meeting, many preparations should be made as early as the conclusion of the previous meeting. The type of preparation varies with local needs. Some key elements are listed below.

Distribution of Minutes. Since the minutes of one meeting contain action items affecting the next meeting, they should be prepared and distributed as soon as possible after the meeting. Early distribution ensures prompt circulation of action items or directions to appropriate officials and employees. It also gives the members an opportunity to check the accuracy of the minutes while their memories are fresh.

Agenda File. The secretary should set up and maintain a separate agenda file or folder and place into it any matter that is a possible subject for the next meeting. This can include items having a specific deadline, recurring monthly items, pertinent written communications, and items from members or committee chairs. While an agenda file can become quite voluminous, a few minutes culling at meeting preparation time helps ensure nothing important is left off the agenda for the coming meeting.

Materials for the Meeting. Communications received by the secretary addressed to or intended for the governing body's attention should be date stamped and filed. Many secretaries prepare committee reports, coordinate and assist with committee meetings, and prepare briefs or summaries for the meeting. Documents required for the board or council meeting should be assembled by the secretary in advance.

Forms for Use in Meeting. Secretaries are usually very busy at meetings of the governing body. Experienced secretaries have found that standard forms reduce the amount of writing or typing required to record actions at meetings. These may be in print or electronic form. Many secretaries use a laptop or other electronic devices during the course of the meeting. Listed below are examples of these forms.

1. Roll call forms with preprinted names and columns for yeas and nays.
2. Forms for recording attendance of members and other officials.
3. Forms for disposition of reports to the proper file or to officials or committees for action.
4. Lists of officers and committees.
5. Forms for approval of minutes.
6. Forms for recording motions and other actions taken.
7. Forms for tabulating bids.
8. Forms for noting informal suggestions or requests arising during discussions.

Final Preparations. It is common for secretaries to contact officials such as the presiding officer or chair, committee chairs, or administrative officers shortly before the meeting to verify any final preparations. It can also include last-minute checks on the arrangement of documents, meeting room setup, and accommodation for the public.

Meeting Notices

The secretary is responsible for publishing and posting meeting notices for the board or council, as well as additional legal notices required for public hearings and advertisements for bids, ordinances, and budgets. In addition, the secretary notifies members of the time, place, and purpose of special meetings.

Public Notice. Under the Sunshine Act, all deliberations and official actions of the governing body must take place at a public meeting after public notice.² Public notice must be made by publishing a legal notice once in a newspaper of general circulation, posting a copy of the notice at the municipal office or the public building where the meeting is held, and providing copies to the media and other interested parties who have provided self-addressed, stamped envelopes.

Under the Sunshine Law, the first meeting of the year must be advertised at least three days in advance. The schedule of remaining meeting must be advertised once, and is usually placed after the board or council's organization meeting. This notice must include specific dates rather than referring generally to a certain day of the month (*i.e.*, "the second Tuesday of the month."). All notices must include the date, time, and location of the meeting. Notice of each special or rescheduled regular meeting must be given once, at least 24 hours before the time of the meeting. Notices for public hearings under the Municipalities Planning Code must include the nature of the matter to be considered and must be made once a week for two consecutive weeks, with the first notice published not more than 30 days and the second not less than seven days before the hearing.

Special Meetings. In third class cities, special meetings are called by the mayor or by request of at least two council members on a five-member council or three council members on a seven-member council.³ In boroughs, special meetings may be called by the president of council or on written request of one-third of the council members.⁴ In both cities and boroughs, members must be given at least 24 hour notice. In townships of the second class, special meetings may be called by the chair or a majority of the board.⁵

ADA Compliance. In order to be in compliance with the federal Americans with Disabilities Act, the public notice for any meeting should include an accessibility notice. Suggested wording is below.

Any person with a disability requiring a special accommodation to attend a (board/council) meeting should notify (name or title) at (phone number) as early as possible, but not later than (3 to 5 work days) prior to the meeting. The (borough, city, township) will make every effort to provide a reasonable accommodation.

If your meeting room is wheelchair accessible, it is recommended that the wheelchair accessible symbol be included at the beginning of this statement.

Agenda

An agenda is critical for orderly, productive meetings, no matter how large or small the municipality. The agenda is a written plan of the order and content for the meeting.

Preparation. Preparing the agenda for upcoming meetings is generally the responsibility of the secretary. Who determines the actual content of the meeting and the order of business is up to board or council policy and should be established in the governing body's rules of procedure. Inclusion of specific items is usually by the designated official, such as the presiding officer. The secretary is responsible for preparing the final format of the agenda, writing or assembling supporting information, and preparing and distributing the meeting packet prior to the meeting. It is advisable to make additional copies for citizens and the media.

Format. The agenda should be provided in paper or electronic format to the board. Even if the board uses laptops or other electronic devices for the meeting packet, the members may prefer to have a paper copy of the agenda. The agenda should be easy to follow, but specific enough so that the members are clear on the action items needed and can easily refer to the location of any supporting information. The members may prefer that supporting information be provided in advance in electronic form or may prefer paper packets.

Order of Business. Most governing bodies follow a general order of business at official meetings. This may be established in rules of procedure adopted by the governing body and can vary depending on local needs. A sample order of business appears below. Alternate orders of business can be found in the *Borough Council Handbook*, *City Government in PA Handbook*, *Township Commissioners Handbook*, and *Township Supervisors Handbook*. All of these manuals can be found at dced.pa.gov by choosing “Local Government” and then “Publications and Documents.”

1. Call to order.
2. Roll call.
3. Public participation.
4. Action on minutes of previous meeting.
5. Treasurer’s report.
6. Correspondence and other communications.
7. Reports of officials and committees.
8. Unfinished business ready for action.
9. Unfinished business, not ready for action.
10. Ordinances or resolutions.
11. New business.
12. Adjournment.

At each public meeting, the board or council must provide an opportunity for citizens and taxpayers to comment on matters of concern, official action, or deliberation which are or may be before the board or council. Municipalities may hold the public comment period before each official action or at the beginning of the meeting.⁶ The governing body may impose reasonable time limits on individual speakers or the entirety of the comment period. The board or council should consider establishing a public comment policy.

Consent Agenda. Some municipalities use a consent agenda as an effective procedure to handle routine matters. A consent agenda includes routine, non-controversial items which do not need discussion or action and could include committee and department reports or other correspondence. The consent agenda can be approved with one motion and one roll call vote, after first providing the members with an opportunity to object to any item on the list. If a member objects to a particular item being included on the list, it is removed and dealt with separately.

Meeting Packet. Secretaries should work with their board or council to determine the amount, type, and format of background information desired for the meeting packet. Just as the governing body should direct the level of detail for the agenda, they should also provide feedback for the amount and type of supporting information. The governing body needs sufficient background to make informed decisions and should find the packet to be useful, not overwhelming.

Distribution. Brief, simple agendas can be provided to the members shortly before the meeting. However, more detailed agendas with supporting information should be distributed far enough in advance for the members to prepare for the meeting. The board or council should establish a cutoff date for agenda items and a timeframe for distribution of materials to the members.

Setting the timeframe for distribution at three days before the meeting provides sufficient time to review the material, yet permits a cutoff date late enough to include timely items. It also provides enough time to notify the media of possible action items, which enhances media relations and keeps citizens informed. The agenda should be posted at the municipal building or meeting location and copies made available to meeting attendees.

REFERENCES

1. 8 Pa. C.S.A. 1111; Borough Code, Section 1111.
2. 65 Pa.C.S.A. 704; Sunshine Act, Section 704.
3. 53 P.S. 36005; Third Class City Code, Section 1005.
4. 8 Pa.C.S.A. 1006(1); Borough Code, Section 1006(1).
5. 53 PS 65604; Second Class Township Code, Section 604.
6. 65 Pa. C.S.A. 710.1; Sunshine Act, Section 710.1.

V. Minutes

The municipal codes make the clerk or secretary responsible for the minutes of meetings of the governing body. Minutes, which are the official record of the proceedings of the governing body and the permanent record of its actions, must be kept in a permanent minute book and are maintained by the secretary as custodian. Secretaries generally take notes at the meetings, long-hand or on an electronic device, and use these notes to prepare the minutes. An assistant can take notes for the secretary or use electronic equipment to record the meeting. The secretary then prepares the minutes from these notes. The city clerk or secretary is identified as the custodian of the records.¹

The Sunshine Act requires that written minutes be made of all public meetings.² The minutes are public records under the Right-to-Know Law.

Method of Taking Minutes

In most municipalities, the secretary is responsible for taking the minutes during meetings and recording the actions of the governing body. In third class cities, the clerk is responsible for recording the proceedings of council in the journal. Accurate minutes are critical as they provide legal evidence of municipal actions.

There is no single standard method of taking notes, wording motions, deciding what to include or for the format of the minutes. Many secretaries type notes during the meeting on electronic devices, while others prefer to take physical notes. Experienced secretaries often develop and use prepared forms which are discussed in Chapter 4, Preparing for Meetings.

It is common, but not required, for municipalities to audio or video record their meetings, which can provide the secretary with a valuable aid in compiling the written minutes. However, audio recordings cannot replace the taking of notes during the meeting to ensure accurate records and the official record of the meeting must be in the form of written minutes. If the meeting is recorded, the board or council should set a policy for retention of these recordings. Some municipalities choose to maintain these records permanently, while others only keep them until the next municipal meeting. Keep in mind that municipal recordings of meetings are considered to be public records under the Right-to-Know Law.

To ensure an accurate record, motions should be verbally repeated by the presiding officer or the secretary in a form approved by the maker of the motion and its seconder, so that both the secretary and the governing body have a clear understanding of the motion. Recording the action taken by the board or council on each motion is critical.

Contents

The Sunshine Act requires the following items to be included in all meeting minutes:

1. The date, time, and place of the meeting.
2. The names of members present.
3. The substance of all official actions and a record by individual member of the roll call votes taken.
4. The names of all citizens who appear officially and the subject of their testimony.³

In addition to these required items, the basic contents for minutes are included below.

Legal Verification. As stated above, the minutes must contain the date, time, and place of the meeting. The minutes should note whether the meeting is a regular, special meeting, or public hearing. If it is a special meeting, the minutes should reference the notice to members and to the public. The end time of the meeting should also be noted.

Attendance. The minutes must record the attendance of members and the time of the arrival or departure of any member not present throughout the entire meeting. This is necessary to document the existence of a quorum throughout the meeting and also identifies which members are included in an unanimous vote. Excused absences of members should be noted in the minutes. Municipal officers in attendance should also be noted.

Minutes of Previous Meetings. The minutes need to include approval of the minutes of the preceding meeting, as well as any special meetings that took place in the interim. Any additions or corrections to the minutes are subject to approval by the board or council or are handled in accordance with adopted rules of procedure. The vote of the board or council validates the accuracy and completeness of the minutes.

Communications/Presentations. Minutes should note the names of persons making verbal presentations to the board or council and the subject matter. The names of citizens and taxpayers appearing before the board or council during public comment should be noted, along with the subject of their statements. Petitions and other official written communications should be noted by source, subject, date, and board action.

Reports. Board and councils often receive reports from various municipal officials, department heads, committees, and other boards or commissions. These reports should be noted by reporter, subject, date, and board or council action, if any. The full text of reports should be included in the meeting file for that date, along with copies of other communications received.

Approval to Pay Bills. Bills are presented to the governing body for approval prior to payment. This is often done in as a bills payable list, which includes the name of the creditor, the amount, and explanation of expense and may be part of the treasurer's report. A copy of the bills payable list and/or treasurer's report should be included in the meeting file for that date. The minutes should show governing body action to approve the list, so auditors can verify that expenditures were officially approved. Any controversial or questioned items should be listed separately. The vote of each member should also be listed, including if a member abstained due to conflict of interest on any item or items. The threshold for approval prior to payment and all payment procedures and exceptions should be established by board or council policy.

Ordinances. Ordinances and resolutions should be identified by number and title. The minutes document the board or council's action on the ordinance and should include a reference that the ordinance met all procedural requirements, such as advertising and public hearings. Votes of members on all ordinances and resolutions should be carefully recorded.

Contracts. Minute entries on contract awards should include the item or service being purchased, identification of all bidders along with the amounts bid, and whether the bidders met requirements in the specifications. Each member's vote on awarding a contract must be accurately recorded, along with any abstentions due to conflict of interest. This is critical if there is ever any question concerning proper contract awards or expenditures.

Summary of Discussion. Minutes should accurately reflect what occurs at a meeting. However opinions, remarks, or statements of members should not be included verbatim. Instead, a short summary of the discussion should include enough detail to give the reader an understanding of the subject, the varying points of view expressed, and the major proponents of each. The summary should help to explain the motion and action of the board or council in a neutral and objective tone.

Motions. The motion proposes an action or the will of the entire governing body on an issue. When a governing body appears to be ready to take action on a matter under discussion, the presiding officer should ask for a motion and a second. Routine motions can be made in the same wording at each meeting. New or complex issues may take more work to phrase as a motion. A motion can come at the end of a statement by a member with the words "I so move." It is the responsibility of the member to word the motion clearly. When it is time to vote, the presiding officer should repeat the motion to the board or council, with the approval of the mover and seconder, or ask the mover to repeat the motion.

As a general rule, the secretary should insist that the motion be repeated before the vote. This helps all members to be clear on the motion before them and protects the secretary and the members. The minutes should note the names of the mover and the seconder. If a motion does not receive a second, that fact should be noted in the minutes and the matter is dropped, unless a municipality's rules of procedure do not require a second.

Yeas and Nays. The Third Class City Code specifically requires the yeas and nays to be recorded by the city clerk for every vote and requires every ordinance to be reduced to writing before a vote is taken.⁴

For boroughs and townships, votes must be recorded for all actions of the board or council. If a vote is unanimous, it should be noted as such. If not, the minutes should include who voted for and who voted against the motion. Rules of procedure can clarify how a governing body will record votes and when a roll call vote is necessary. Where roll call votes are required, roll call forms can ease the secretary's task.

Distribution and Recording

Distribution of Minutes. Since the minutes of one meeting contain action items affecting the next meeting, they should be prepared and distributed as soon as possible after the meeting. Early distribution ensures prompt circulation of action items or directions to appropriate officials and employees. It also gives the members an opportunity to check the accuracy of the minutes while their memories are fresh.

While some municipalities will release draft minutes to the public, others choose to wait until the minutes are approved by the board or council. Stamping copies of minutes as draft should address any concerns with releasing the minutes prior to official approval. Under the Right-to-Know Law, draft minutes must be released if requested after the next regular meeting, even if the board or council did not act to approve the draft minutes.

Based on information in the minutes, the secretary should prepare a checklist of actions to be taken by officials and employees. A procedure for reporting back completed actions should be established so the secretary can make the proper reports at the next meeting.

Minute Book. Minutes must be recorded in a mechanical post binder book capable of being permanently sealed with consecutively numbered pages with a security code printed on them and a permanent locking device or into a bound book with numbered pages. Minutes may be typed or printed directly onto the pages or may be stapled, glued or taped to the pages of such books.⁵

In boroughs and townships, the municipal seal must be impressed upon each page in the minute book and the seal impression must cover both a portion of the attached page and a portion of the page of the book to which it is attached. While not required, it is recommended that the officers and the secretary sign minute book entries.

Minute books are permanent records. Creating a backup copy is a strongly recommended practice. Original minute books should be stored in a fireproof vault along with other valuable records. To save wear and tear on the official minute book, it is a recommended practice to keep an official copy of minutes of recent meetings available for public inspection.

Amendments and Corrections. Amendments or corrections made to minutes after they are approved and recorded in the minute book must be made by a vote of the governing body. The amendment or correction should be noted in the minutes for the meeting at which this vote was taken and a note should be added in the margin that of the corrected minutes.

REFERENCES

1. 8 Pa. C.S.A. 1111; Borough Code, Section 1111; 53 P.S. 36016.1; Third Class City Code, Section 1016.1; 53 P.S. 55901; First Class Township Code, Section 901; 53 P.S. 65802; Second Class Township Code, Section 802.
2. 65 Pa C.S.A. 706; Sunshine Act, Section 706.
3. 65 Pa C.S.A. 706; Sunshine Act, Section 706.
4. 53 P.S. 36018.3; Third Class City Code, Section 1018.3.
5. 8 Pa. C.S.A. 1009; Borough Code, Section 1009; 53 P.S. 37444; Third Class City Code, Section 2444; 53 P.S. 56590; First Class Township Code, Section 1503; 53 P.S. 65605; Second Class Township Code, Section 605.

VI. Legislative Actions

As the assistant to the governing body, the secretary is involved in the process of enacting local legislation. The degree of involvement ranges from clerical in places with strong elected leadership to oversight of the process where inexperienced members rely on the skill of a veteran secretary.

Types of Legislative Actions

A governing body can only take official action as a body at an advertised public meeting. Direction given by a single member has no legal standing. Different types of legislative actions are available to the board or council for different purposes. The most common types of action are ordinance, resolution, and motion. The specific type of action used may be determined by statute or by policy of the governing body.

Ordinance. An ordinance is a permanent local law. As a local law, an ordinance remains in place until it is amended or repealed by another ordinance enacted by at a later time by the board or council. Penalties, which can be enforced in court, may be imposed for failure to obey ordinances. Ordinances are used when a municipality wants to take regulatory action.

Various sections in the municipal codes and general municipal law require adoption of an ordinance. Procedures for adopting ordinances require legal advertising and recording. Land use ordinances require public hearings and review by the municipal and county planning commissions. The municipal solicitor should be consulted to guide the secretary and governing body through the ordinance adoption process and to assure that the text of the ordinance meets current legal requirements.

Resolution. A resolution is formal statement of the will of the governing body. Resolutions are useful for adopting budgets, setting real estate tax levies, and establishing fee schedules. These actions do not require penalties or enforcement and do not need to be advertised.

Some code provisions specifically require an ordinance, while others allow either an ordinance or resolution. The governing body should consult its solicitor to determine when to use an ordinance and when a resolution will suffice.

Motion. A motion is a parliamentary tool that is used to arrive at a decision. Motions are used to determine the will of the governing body on any issue before it. Ordinances and resolutions are adopted by motion.

Policy. A policy is an administrative tool that is used to regulate the internal affairs of the municipality. The secretary is often involved in developing such policies, which may include the governing body's rules of procedure, employee manuals, or administrative functions. Policies may be adopted to determine how a municipality will administratively implement rules established by ordinance or statute.

Parliamentary Procedure

Rules of parliamentary procedure can expedite business and should be followed to help transact business in a fair and efficient manner. The municipal secretary should be familiar with the rules and procedures for conducting business at meetings and the mechanics of voting. Rules of parliamentary procedure are designed to expedite business while preserving the right of each member to be heard. Some governing bodies have adopted formal written rules of procedure. In most cases, procedural rules are unwritten and fixed by practice.

The most commonly used standard code on parliamentary procedure is *Robert's Rules of Order* by Henry M. Robert. Some municipalities use a simplified version of *Robert's*, such as *Robert's Rules of Order for Small Assemblies*, which is included in most current versions of *Robert's Rules*. *Jefferson's Manual* and *Cushing's Manual* also contain parliamentary procedures.

Business is conducted through motions and votes on the motions. A main motion is simply what the name implies, a motion to accomplish some concrete or specific item of business on the agenda. There can be only one main

motion at a time. A subsidiary motion is a motion that is secondary to the main motion. If a secondary motion is made, then it must be dealt with before the main motion can be voted on. Commonly used subsidiary motions are to amend the main motion, to limit or extend debate, to postpone indefinitely, or to table the main motion.

Quorum. A quorum is the minimum number of members of a board or council that must be present to conduct business. Each municipal code has different rules for determining a quorum. Generally it is the duty of the presiding officer to declare the presence of a quorum so business may begin.

In boroughs, the required quorum is a majority of the entire council and only members physically present count towards the quorum. An action is passed by a majority of those voting in the presence of a quorum. Council may authorize members to participate by telecommunications device.¹

In first class townships, a quorum is a majority of the members of the board, and an action passed by a majority of those voting in the presence of a quorum reflects the will of the board.²

In second class townships, a quorum is two members for three-member boards and a quorum is three for those with five-member boards. An affirmative vote of the majority of the entire board of supervisors is required to transact business.³

In third class cities, the required quorum is a majority of the entire council and only members physically present count towards the quorum.⁴ Council may authorize members to participate by telecommunications device.⁵ Adoption of ordinances and resolutions require an affirmative vote of a majority of the entire council.⁶

Ordinance Adoption Procedures

Preparation. Secretaries or members of the governing body may gather sample ordinances or draft simple ordinances for the solicitor's review. The secretary can also perform research to determine if any current ordinances would be affected or need changed due to a proposed ordinance. It is strongly recommended that all proposed ordinances be reviewed by the solicitor before adoption. Most ordinances should be drafted by the solicitor.

The governing body should provide suggestions for what they would like to accomplish and direct the solicitor to draft the ordinance. If collecting sample ordinances, limit these to ordinances that have been adopted by Pennsylvania municipalities. The importance of the solicitor's review of all proposed ordinances cannot be stressed enough.

In third class cities, ordinances are introduced as bills and must be numbered. Ordinances may be numbered in other municipalities and this is usually the duty of the secretary.

Consideration. The Third Class City Code contains specific and detailed requirements for consideration of legislative proposals.⁷ In cities, a council member must present all proposed ordinances in the form of a written bill. The bill is then serially numbered by the clerk for the calendar year. No bill, except for appropriations, may include more than one subject as expressed in the title. On introduction, the title of every bill must be read, as must all amendments or revisions at length prior to final adoption. The bill may not be finally passed on the same day that it is introduced and at least three days must intervene. The measure may be finally adopted after a second reading.

The other municipal codes require ordinances to be adopted at a public meeting. Sometimes proposals are discussed and revised in a committee before the proposals are formally introduced before the governing body. In other places, measures are introduced, then referred to committees or considered by the governing body as a whole. Some measures require public hearings before they are enacted. Governing bodies may hold public hearings even if they are not required by law. Arrangements for the public hearings, including notice and agenda, are usually the responsibility of the secretary.

Advertising. All proposed ordinances must appear in the legal section of a newspaper of general circulation within the municipality not more than sixty nor less than seven days prior to passage.⁸ Publication must include the full text or the title and a brief summary that is prepared by the solicitor. The summary must include all provisions in reasonable detail and indicate a place within the municipality where the complete proposed ordinance can be

examined. Full texts are to be supplied to the newspaper and filed in the county law library or other designated county office, which may be done in electronic form if allowed by the county. If substantial amendments are made in the proposed ordinance, the proposal, including a summary of the ordinance and the amendments, must be readvertised before the final enactment.

Land use ordinances, Act 511 tax ordinances, and other special types of ordinances have additional legal advertising requirements.

Veto. The power of veto exists only in boroughs.⁹ All ordinances must be submitted to the mayor after passage by council. The mayor may sign the ordinance, let it become effective without signing it after ten days, or veto it and return it to council. Vetoes can be overridden by a special majority of council.

Veto power also is given to strong mayors/executives in certain home rule charters, optional plans, and optional third class city charters. Procedural details would be part of the charter or plan.

Certification. In cities of the third class, ordinances must be signed by the mayor and attested by the city clerk.¹⁰ Under the other codes, signatures of elected officials are not required for the ordinance copied into the municipal ordinance book, however this copy of the ordinance needs to be certified by the secretary. The following form is a sample certification.

I hereby certify that the foregoing ordinance was advertised in (name of newspaper) on (date), a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth at a regular (or special) meeting of the (governing body) held on (date).

(Signed) _____
Secretary

(seal)

Minutes. The minute book should refer to the bill or ordinance by title, number, and subject, accurately show the action taken, and record the yeas and nays of the members.

Ordinance Book. The original copy of the ordinance along with the proof of publication must be kept in a permanent ordinance file. Each of the codes requires every ordinance to be copied into the ordinance book.¹¹ For all jurisdictions, except second class townships, this must be done within one month after adoption. If this is not done, the validity of the ordinance is subject to challenge.

The entry must be a complete and exact copy of the original, attested by the secretary, and impressed with the corporate seal. Standard building and housing codes adopted by reference are not entered into the ordinance book in full. Only the ordinance of adoption is recorded in the book with a notation of the place where full copies are available.

Effective Date. In third class cities, most ordinances become effective ten days after enactment, after being signed by the mayor and attested by the city clerk.¹² In second class townships, ordinances take effect five days after enactment.¹³ In boroughs, when an ordinance takes effect is dependent on the action of the mayor.¹⁴ In first class townships, ordinances are effective when recorded in the ordinance book.¹⁵ Special types of ordinances may carry different effective dates.

Indexing. City clerks are required to properly index the record books, compilation, or codification of ordinances.¹⁶ The other codes do not require secretaries to index ordinance books or make annual compilations of ordinances. Because of the advantages, however, municipalities are increasingly instituting this practice. This task is usually assigned to the secretary, often under the supervision of the solicitor.

Court Proceedings. Accuracy is necessary in keeping minutes and recording ordinances and proper procedures must be followed to ensure the effectiveness of an ordinance.

The Third Class City Code and the Borough Code have identical provisions for evidencing ordinances.¹⁷ Ordinances are proven by a certificate of the secretary, under the corporate seal, and when printed in book or pamphlet form under authority of the municipality, are to accepted as evidence without further proof.

Ordinance Codification

Codification of ordinances is frequently undertaken as a result of encouragement or insistence by the secretary who sees the need for such action. Codification of ordinances is usually done by the solicitor or a contracted specialist. The secretary assembles materials for the job and acts as liaison if done by an outside firm.

The procedure for adopting an ordinance to consolidate, codify or revise the body of municipal ordinances is the similar to other ordinances. The solicitor's guidance is critical when codifying ordinances.

REFERENCES

1. 8 Pa. C.S.A 1001; Borough Code, Section 1001.
2. 53 P.S. 55702; First Class Township Code, Section 702.
3. 53 P.S. 65603; Second Class Township Code, Section 603.
4. 53 P.S. 36004; Third Class City Code, Section 1004.
5. 53 P.S. 36005; Third Class City Code, Section 1005.
6. 53 P.S. 36018.2; Third Class City Code, Section 1018.2.
7. 53 P.S. 36018.5 and 36018.6; Third Class City Code, Section 1018.5-1018.6.
8. 53 P.S. 36018.9; Third Class City Code, Section 1018.9; 8 Pa. C.S.A. 3301.2; Borough Code, Section 3301.2; 53 P.S. 56502; First Class Township, Section 1502(I); 53 P.S. 66601; Second Class Township Code, Section 1601.
9. 8 Pa. C.S.A. 3301.3; Borough Code, Section 3301.3
10. 53 P.S. 36018.4; Third Class City Code, Section 1018.4.
11. 53 P.S. 36018.11; Third Class City Code, Section 1018.11; 8 Pa. C.S.A. 3301.4; Borough Code, Section 3301.4; 53 P.S. 56502; First Class Township, Section 1502(I); 53 P.S. 66601; Second Class Township Code, Section 1601.
12. 53 P.S. 36018.8; Third Class City Code, Section 1018.8.
13. 53 P.S. 66601; Second Class Township Code, Section 1601.
14. 8 Pa. C.S.A. 3301.3; Borough Code, Section 3301.3.
15. 53 P.S. 56502; First Class Township, Section 1502(I).
16. 53 P.S. 36018.11; Third Class City Code, Section 1018.11.
17. 53 P.S. 36018.12; Third Class City Code, Section 1018.12; 8 Pa. C.S.A. 3301.4; Borough Code, Section 3301.4.

VII. Records and Notices

In most municipalities, the secretary is responsible for keeping municipal records and placing legal advertisements when required by law. Adhering to all requirements is a central part of the duties of a secretary. In many smaller municipalities, the secretary performs many clerical tasks and is responsible for gathering, filing, and maintaining various kinds of data, information, and records.

Information Management

We live in the “information age” where virtually every organization, regardless of size, uses technology as an integral part of its daily operations. Information management in municipal government can range from “off-the-shelf” software to customized applications. State and federal information and resources are available online. Most grant applications and mandated reports must be submitted on-line. Communication by email between officials and citizens is commonplace.

Municipalities use technology to generate tax and utility bills and records, track building or zoning permits, inventory municipal equipment and road signs, and maintain municipal websites. Websites themselves can range from basic to comprehensive. Municipalities should shop around and ask other municipalities for references before investing in new technology or services.

Storage of Records

All public records should be securely filed or stored at one central location within the municipality. Secretaries should insist on this policy for their own protection, as well as the general protection of all officials, because they are statutorily responsible for the preservation of municipal records. Important, and sometimes irreplaceable, documents, maps, minutes, and ordinance books have been lost, stolen, or destroyed because of the lack of a secure central storage site.

Communities with municipal buildings have enhanced security over these documents. However, clear policies should be in place to restrict or prohibit removal of original documents from the central location. Municipal documents should only be kept in a home or business when there is no municipal building or other secure option. There are criminal penalties for altering, destroying, or removing public records.

Recording Municipal Records

The Political Subdivision Public Records Law provides required methods for recording or transcribing records,¹ as well as the municipal codes. All records that are required or authorized by law to be recorded or copied are valid if recorded or transcribed by any digital, photostatic, photographic, microphotographic, microfilm, microcard, miniature photographic, optical, electronic, or other process which accurately reproduces the original and provides a durable medium for recording, storing, and reproducing the record in accordance with standards established by the Local Government Records Committee. The reproduction standards must be at least equal to those approved for permanent records by the National Bureau of Standards.

Where recording in a specified book is required,² such items may be recorded or transcribed into a mechanical post binder book capable of being permanently sealed with consecutively numbered pages with a security code printed on them and a permanent locking device or into a bound book with numbered pages. Records may be typed or printed directly onto the pages or may be stapled or glued to the pages of such books. In boroughs and townships, the municipal seal must be impressed upon each page.

Preservation and Disposition

As discussed previously in this manual, the municipal codes make the secretary responsible for preserving the municipality's records and documents. The Municipal Records Act³ creates the Local Government Records Committee and defines public records as "any papers, books, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by an entity under law or in connection with the exercise of its powers and the discharge of its duties."

The Committee, in conjunction with the Pennsylvania Historical and Museum Commission, is responsible for creating schedules for the retention and disposition of municipal records. The schedule prescribes minimum periods for retention of specific classes of records and a clear standard and procedure for record disposal. The Act does not prevent any municipality from retaining records longer than the period established in the schedule.

The governing body must declare its intent to follow the retention schedule by ordinance or resolution, approve each act of disposition by resolution, and receive written consent from PHMC before destroying or transferring original records which have been microfilmed, photographed, or microphotographed. Municipal officials who dispose of public records in accordance with the Municipal Records Act cannot be held liable for the records they destroy.

For more information, including the Municipal Records Retention schedule, a sample resolution or ordinance to follow the schedule, and records disposal certification forms, visit the PHMC website at www.phmc.pa.gov, choose "State Archives," and then "Records Management."

Right-to-Know Law

The Right-to-Know Law⁴ requires every municipality to appoint an open records officer, which is frequently the secretary since they are responsible for maintaining the municipality's records. The open records officer receives records requests, directs them to the appropriate person, tracks the progress of responses, and issues interim and final responses to requesters. The open records officer should be authorized to consult the solicitor when necessary to determine whether a record is public and to seek assistance in writing denial letters. Municipalities must register their open records officer with the Office of Open Records.

Municipalities must accept written open records requests submitted in person and by mail, e-mail, and fax. Any legal resident of the United States may submit a record request. Upon receipt of a request, the open records officer must note on it the date of receipt and the date by which he or she must respond in writing to the request. The officer must fulfill or deny the request, or provide written notice that additional time is needed and the reason for the time extension, within five business days from receipt of the request. If the officer fails to respond in writing within five business days, the request is deemed denied and the requester may appeal to the Office of Open Records.

The open records officer must review every request to determine if it is for a record, which is defined as "any information, regardless of its physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business, or activity of the agency." Records can include paper, maps, tapes, photographs, and electronic documents. E-mail is a record and must be reviewed to determine if a requested email is a public record.

If a municipality denies access to a record, it must prove why the requested record is not public. Secretaries should consult their solicitors when writing denial letters, because denials must include the legal basis for denial of the record and cite applicable laws and court cases. Denials must be written and describe the record requested; the typed or printed name, title, business address, business telephone number, and signature of the open records officer denying access; the date of the response; and the Right-to-Know Law appeal procedure. If a request is denied, an appeal may be filed with the Office of Open Records.

For more information about the Right-to-Know Law, log onto the Office of Open Records website at openrecords.pa.gov.

Legal Notices

The secretary devotes considerable time to publishing legal notices and providing other types of official notice. Legal notice may be required to be placed by publications, by personal service, or by posting.

Specific types of notices are designated to protect the interest of particular individuals, the general public and the municipality. Questions about correct notice procedure should be addressed to the solicitor.

Computing Time. The amount of required time for notices or other legal procedures is defined in the Statutory Construction Act.⁵ Whenever a period of time is specified, it is computed by excluding the first and including the last day of the period. If the last day falls on a Saturday, Sunday, or legal holiday, it is omitted from the calculation. "Successive weeks" means successive calendar weeks. Advertisements may be made on any day within the calendar week, but at least five days must elapse between each publication, and at least the number of weeks specified must elapse between the first publication and the date of the event.

Publication. The Newspaper Advertising Act contains the requirements for legal advertisements.⁶ When the municipal codes require a notice to be published in a newspaper, it must be in the legal section of a newspaper of general circulation within the municipality.⁷ Municipalities may also advertise public works projects in trade publications.

In addition to newspapers of general circulation, municipalities must publish notices of court proceeding, an election to increase debt, and the issue and sale of bonds to be paid for by taxes in a legal newspaper within the county, unless this requirement is waived by the courts.⁸

Proof of Publication. Secretaries must be sure to obtain proof of publication for all legal advertisements from the newspaper publishing the advertisement.⁹ The proof of publication is required legal proof that the municipality followed the notification requirements for the action.

Notice by Mail. Whenever a statute or ordinance requires service of personal notice by mail, it should be sent by registered or certified mail with a return receipt requested. This provides legal evidence the subject party has actually received the notice. Whenever a law specifically indicates registered mail, certified mail may be used.¹⁰

REFERENCES

1. 65 P.S. 63.1; 1949 P.L. 908, Section 1.
2. 53 P.S. 37444; Third Class City Code, Section 2444; 8 Pa. C.S.A. 1009; Borough Code, Section 1009; 53 P.S. 56590; First Class Township Code, Section 1503; 53 P.S. 65605; Second Class Township Code, Section 605.
3. 53 Pa.C.S.A. 1382; Municipal Records Act, Section 1382.
4. 53 PS 67.101 et seq.; Right-to-Know Law, Act 3 of 2008.
5. 1 Pa.C.S.A. 1908 and 1909; Statutory Construction Act.
6. 45 Pa.C.S.A. 301; Newspaper Advertising Act.
7. 53 P.S. 35109; Third Class City Code, Section 109; 8 Pa.C.S.A. 109; Borough Code, Section 109; 53 P.S. 55110; First Class Township Code, Section 110; 53 P.S. 65109; Second Class Township Code, Section 109.
8. 45 Pa.C.S.A. 308; Newspaper Advertising Act.
9. 45 Pa.C.S.A. 307; Newspaper Advertising Act.
10. 1 Pa.C.S.A. 1991; Statutory Construction Act.

VIII. Budget and Finance

A budget is a yearly plan outlining the revenues a municipality expects to receive and how it will spend them. The budget is a vital policymaking tool that establishes what programs will be implemented for the coming year and is a means of exercising control over municipal operations.

A carefully planned budget is a sound budget. Failure to plan yearly expenditures reduces a budget to a formality performed simply to fulfill a legal mandate. To be an effective tool, the budget must be viewed as a comprehensive plan of proposed municipal operations that is based on facts and priorities. When fully implemented, the budget is a tool that can be used to help achieve goals set by the governing body.

Secretary's Role in Budget Preparation

Municipal secretaries perform the clerical duties of advertising and filing as required by statute. In addition, the secretary participates in the budget preparation process in varying degrees in many municipalities. The clerk's role is minimal in third class cities. In boroughs and townships that do not have a manager, participation ranges from the basic responsibilities in the municipal codes to functioning as budget administrator.

Some basic suggestions are included here. Further information on budget preparation can be found in the *Fiscal Management Handbook* available from DCED online at dced.pa.gov (choose Local Government and then Publications and Documents) and by attending DCED training courses on budgeting. Consultative assistance on budget techniques is also available from DCED.

The key to effective budgeting is recognizing that preparation is a continuous process which should begin on the first day of a fiscal year and conclude with final adoption at the close. Fiscally sound budgets are often based on historical trends within a municipality. These trends can be recognized and examined by using the municipal audit as a tool for planning and developing a realistic budget. Although the municipal codes contain deadlines for initiating and completing official action on the budget document, budget preparation procedures are left entirely to the discretion of each governing body. For most municipalities, budget preparation remains crammed into a relatively short period near the end of the year.

Adopting a workable budget preparation calendar that distributes activity throughout the year is the first essential step toward realistic and effective budgeting. Secretaries who are in a position to do so in their municipalities can make a significant contribution to effective budgeting by implementing a general budget preparation calendar. It helps to reduce or eliminate confusion and errors that result from last-minute decisions. It also encourages the use of the final days to review and evaluate program priorities instead of juggling estimates. In addition, it facilitates valid estimates based on accumulated data and prevents deadline decisions made by guesswork.

Basic Budget Preparation Steps

Gathering Facts and Estimates. As the keeper of official minutes, the filer of administrative reports, and the key liaison between officials, the secretary is in a position to establish an experience and suggestion file. Throughout the year, the secretary accumulates information on operating experience and suggestions for potential future projects. Such information is valuable in proposing activities for the next year and providing measures of cost per unit.

Monthly cumulative financial reports should reflect financial operations to date in relation to budget projections. Differences between budget and actual revenues and expenditures can be promptly identified and adjustments can be made in operations or the budget can be amended. Comparisons allow for more accurate projections in future years. Creation and continued maintenance of a multi-year budget and expense history is valuable for trend analysis in budget preparation.

Forms for estimating revenues and expenditures for the next fiscal year should be prepared in the summer for later use by appropriate officials. The forms should match classifications of revenues and expenditures in the budget format. After the forms are prepared, revenue and expenditure data for the current year to date should be entered, giving responsible officials a current data for making estimates.

In late summer, appropriate officials should consider work to be done during the upcoming year and recommend programs. These recommendations should be reflected in completed estimate forms submitted to the secretary or fiscal officer, who will check for accuracy. The governing body should carefully review program recommendations and cost estimates with department heads. Basic decisions on municipal programs should be made by early October.

Budget Preparation. At a public meeting of the governing body, a preliminary budget document must be submitted and approved for publication. In cities, the budget must be submitted to council for first reading at the last meeting in November.¹

For boroughs and townships of the first class, the budget must be prepared at least thirty days prior to adoption.² This means a proposed budget is presented at a public meeting of the board or council and approved for advertising and public inspection. This should occur as early as feasible in November.

Townships of the second class do not have a specific requirement for preparing the preliminary budget document. In order to meet all required advertising timeframes, this should be done as early as feasible in November.

For effective management, the municipality must also prepare a working budget. In the working budget, expenditures are broken down into specific items, such as salaries and wages, contracted services, supplies and materials within each of the functional areas. This type of budget allows the governing body to judge the reasonableness of the amounts that are spent for each function, yet retain control over line item expenses. More complex budgeting systems are used in some municipalities, which may include capital budgets based on multi-year programs.

Advertising and Inspection. After tentative adoption, the budget must be advertised. Under the municipal codes, the proposed budget must be open for public inspection for ten days in cities and boroughs³ and for twenty days in townships.⁴ The notice must state where and when the budget is available for inspection.

Final Adoption. Tentative budgets may be amended before final adoption. In cities and townships of the first class, if amendments to the budget increase aggregate expenditures by more than ten percent or any individual item by more than 25 percent, the budget must be readvertised before final adoption.⁵

In townships of the second class, the budget must be readvertised before final adoption if the budget increases aggregate expenditures by more than ten percent or more than 25 percent in any major category.⁶

If boroughs amend the budget after advertising, they do not need to readvertise before final adoption.⁷

The final budget and real estate tax must be adopted at a regular or special meeting no later than December 31. In cities, boroughs, and townships of the first class, real estate taxes must be enacted each year. Act 511 tax ordinances, such as earned income and local services taxes, are permanent until amended or repealed.

Reopening Budgets. Annual budgets may be reopened in the January following a municipal election.⁸ This gives newly-elected members of governing bodies a chance to alter the budget for the current year. Amended budgets must be advertised and available for public inspection for 10 days and adopted by February 15.

Financial Accounts

The role of the secretary in keeping financial accounts varies by type and size of municipality. City clerks are seldom involved in keeping accounts. In townships of the first class, secretaries are required to keep a record of the appropriations made by the commissioners.⁹ In townships of the second class, secretaries are not involved in keeping accounts, however often the secretary also serves as treasurer or assistant treasurer.

Municipalities are free to develop budgets and keep accounts in any type of accounting system. DCED provides a recommended Chart of Accounts. This account numbering system incorporates and expands the same system used in the annual financial report. Whether or not the *Chart of Accounts* is used, the budget and accounting systems should conform. However, if line item classifications do not match the financial report forms, it will take considerable work each year to properly translate items from the local system to the state report.

Payment of Funds

In boroughs, payments require proper orders, drawn upon the treasurer. In first class townships, orders must be signed by the president or vice president of the board of commissioners and attested by the secretary. If the borough or township of the first class has a controller, they must countersign all warrants.¹⁰

Budget Transfers. Budgets are financial and operational guides. The municipal codes permit governing bodies to transfer funds from one account to another during the year and to make supplemental appropriations if additional funds become available.

In cities, transfers and supplemental appropriations may be made at any time, but council must first ask the affected department head for comments before making any transfer.¹¹ Borough councils can make transfers or supplemental appropriations at any time with no restrictions.¹²

In townships of the first class, transfers and supplemental appropriations are restricted to the last nine months of the fiscal year and if a transfer exceeds five percent of the total appropriation to a fund, it requires the affirmative vote of two-thirds of the commissioners.¹³ In townships of the second class, supplemental appropriations may be made at any time but transfers are restricted to the last nine months of the fiscal year.¹⁴

Financial Reports

The annual budget is the municipal action program expressed in revenues and expenditures. Board or council members are generally well informed on the current status of individual budgeted projects, either because they have personally observed activity or because of progress reports made at meetings.

Virtually every municipal governing body receives a variety of financial reports monthly and at the close of the fiscal year. In those boroughs and townships operating without managers, at least some financial reporting responsibility is assigned to the secretary.

Monthly financial reports should show transactions not only for the current month, but should also inform the board or council members of the financial situation for the year to date with comparison of budgeted and actual amounts. Cumulative reports should reflect the financial position after payment of bills at the current meeting. Reports should relate actual revenues and expenditures to the budget. It is critical that the board or council have the municipality's current financial status before them when making decisions.

A simple report provides members with an informative summary of finances to date and can easily be provided with accounting software. It is most effective when issued monthly and is recommended that an annual summary be prepared at the close of the year. The revenue summary report should list all sources of receipts. Opposite each source, columns should be provided to show the budget estimate for the year, the current month's estimated and actual receipts, the amount over or under the current month's estimate, and the total balance expected to be collected for the remainder of the year.

The cumulative comparative statement of expenditures should list at least the major expense categories based on the budget. Opposite each item, columns should be provided to show the budget estimates for the year, the month's estimated and actual expenditures, and the amount over or under the month's estimate. Parallel to these columns should appear the amount estimated in the budget for the year to date, actual expenditures to date, the amount over or under budget estimates, remaining balances, encumbrances, and the total expenditures to date.

Annual Financial Reports

In third class cities, the chief fiscal officer is responsible for the annual financial report.¹⁵ The report must be submitted to the city council at a stated meeting in April. The report and a concise financial statement must be published once in a newspaper of general circulation at least 10 days prior to the April meeting. The independent auditor must approve the report and statement before publication.

In boroughs and townships of the first class, the audit, annual financial report, and statement of financial condition is the duty of the elected auditors, certified public accountant, or controller.¹⁶ These reports must be prepared and filed with the municipal secretary, clerk of the court of common pleas of the county or prothonotary, and with DCED no later than 90 days after the close of the fiscal year. Within 10 days of completing the annual audit, a concise financial statement must be advertised in a newspaper of general circulation.

In townships of the second class, the audit, annual financial report, and concise financial statement is the duty of the elected auditors or certified public accountant.¹⁷ The audit must be completed by March 1. By March 10, a concise financial statement must be advertised in a newspaper of general circulation. In townships with populations less than 200, publication requirements may be met by posting in public places.

These reports must be filed with the township secretary, clerk of the court or the prothonotary, and DCED no later than ninety days after the end of the year.

All municipalities must electronically file the annual financial report with DCED. This report provides a summary and detailed statement of revenues and expenditures for each municipal fund.

Real Estate Tax Collection

The tax duplicate for real estate taxes levied by the municipality is prepared by the county assessment office, after it is certified as accurate by the municipality and serves as a warrant on the elected tax collector, who uses the duplicate to notify persons of the taxes due.¹⁸

The tax collector must remit tax collections to the taxing district by the 10th day of each month for the previous month's collections unless the taxing districts requires more frequent remittances.¹⁹ The tax collector must provide the statement in writing on a form approved by DCED. The monthly form is submitted to the secretary or clerk of the taxing district for taxes collected under the Local Tax Collection Law, including real estate taxes. Municipalities may impose late fees on tax collectors that fail to meet the reporting deadline.

Tax collectors are required to settle or reconcile the real estate tax duplicate by January 15 for the prior year.²⁰ In addition, elected tax collector records must be audited annually by the auditors, controller, or appointed CPA. Two or more taxing districts may agree to conduct a simultaneous audit of any elected tax collector serving the taxing districts.

Municipal Borrowing

Before municipalities may borrow funds, they must follow the procedures in the Local Government Unit Debt Act.²¹ All debt proceedings should be conducted under the guidance of the solicitor or special counsel. The secretary may participate in the process or may only certify complete and accurate copies of the necessary papers for incurring debt to DCED.

Before issuing any debt, municipalities must file their borrowing proceeding materials with DCED. DCED examines the proceedings for compliance with the debt limit and required procedures. Debt that is more than \$125,000, or 30 percent of the municipal borrowing base, whichever is less, requires the approval of DCED. For small borrowings of less of \$125,000 or 30 percent of the borrowing base, a simpler borrowing procedure known as small borrowing can be followed.

An ordinance for incurring debt must be advertised in a newspaper of general circulation in the municipality not less than three nor more than thirty days prior to its enactment.²² Within 15 days of final enactment of the borrowing ordinance, a notice must be advertised once stating briefly the substance of any amendments, the price bid for the bonds or notes, and the range of interest rates named in the successful bid.

More information about borrowing can be found in DCED's *Debt Management Handbook*, which is available online at dced.pa.gov (choose "Local Government" and then "Publications and Documents.")

REFERENCES

1. 53 P.S. 36809; Third Class City Code, Section 1809.
2. 8 Pa. C.S.A. 1307; Borough Code, Section 1307; 53 P.S. 56701; First Class Township Code, Section 1701.
3. 53 P.S. 36809; Third Class City Code, Section 1809; 8 Pa. C.S.A. 1308; Borough Code, Section 1308.
4. 53 P.S. 56701; First Class Township Code, Section 1701; 53 P.S. 68202; Second Class Township Code, Section 3202.
5. 53 P.S. 36809; Third Class City Code Section 1809; 53 P.S. 56701; First Class Township Code, Section 1701.
6. 53 P.S. 68202; Second Class Township Code, Section 3202.
7. 8 Pa. C.S.A. 1309; Borough Code, Section 1309.
8. 53 P.S. 36810; Third Class City Code, Section 1810; 8 Pa. C.S.A. 1311; Borough Code, Section 1311; 53 P.S. 56701.1; First Class Township Code, Section 1701.1; 53 P.S. 68202; Second Class Township Code, Section 3202(d).
9. 53 P.S. 55902; First Class Township Code, Section 902.
10. 8 Pa. C.S.A. 1313 & 1065; Borough Code, Section 1313 & 1065; 53 P.S. 55803A & 56104; First Class Township Code, Section 803A & 1104.
11. 53 P.S. 36804; Third Class City Code, Section 1804.
12. 8 Pa.C.S.A 1312; Borough Code, Section 1312.
13. 53 P.S. 56701; First Class Township Code, Section 1701.
14. 53 P.S. 68202; Second Class Township Code, Section 3202.
15. 53 P.S. 36812; Third Class City Code, Section 1812.
16. 8 Pa. C.S.A. 1005, 1059.1 & 1063; Borough Code, Section 1005, 1059.1 & 1063; 53 P.S. 55520, 56003, and 56103; First Class Township Code, Section 520, 1003, and 1103;
17. 53 P.S. 65904 and 65917; Second Class Township Code, Section 904 & 917.
18. 72 P.S. 5511.2 & 5511.5; Local Tax Collection Law, Section 2 & 5.
19. 72 P.S. 5511.25; Local Tax Collection Law, Section 25.
20. 72 P.S. 5511.26; Local Tax Collection Law, Section 26.
21. 53 Pa. C.S.A 8001; Local Government Unit Debt Act, Section 8001.
22. 53 Pa. C.S.A. 8003; Local Government Unit Debt Act, Section 8003.

IX. Purchasing and Contracts

The municipal secretary often plays a role when purchasing equipment and supplies. The basic components of the purchasing and contracting process are covered in this chapter. More detailed information can be found in the *Purchasing Handbook*, available from DCED at dced.pa.gov.

Secretary's Role

The secretary often has a central role in the municipal purchasing process. The municipal codes require bid notices to be advertised in a newspaper of general circulation, which are placed by the secretary, who serves as custodian of the documents involved and attests the final contract. The secretary's role may be extensive, particularly in smaller municipalities. The secretary may acquire specifications, prepare and place legal notices, distribute instructions to prospective bidders, answer prospective bidders' questions, tabulate bids after public opening, and notify unsuccessful bidders. The secretary may collect the required bonds, monitor performance, and return bonds at the end of the contract.

All municipal secretaries should be familiar with the contract provisions in their respective municipal code.¹ Questions about these provisions should be taken to the solicitor as purchasing provisions must be strictly followed and failure to abide by contracts may lead to legal action against the municipality.

Specifications File. Most secretaries maintain a file of past specifications. Copies of specifications from neighboring municipalities can be added to the file. Standard specifications for materials and construction of streets, roads, bridges and drains are available from PennDOT. The municipal engineer can provide standards for other items and should develop specifications for infrastructure projects.

Prospective Bidder File. Maintaining a current file of suppliers of goods and services allow the municipality to gather and maintain information that is helpful in demonstrating a bidder's qualifications. It also provides the secretary with a ready list of prospective bidders who can be sent invitations to bid directly, in addition to the published legal advertisement.

Small Purchases

The municipal codes require at least three written or telephone price quotations for all contracts between \$10,500 and \$19,400 for 2015.² Bid thresholds are adjusted annually for inflation by the state Department of Labor and Industry and advertised in the *Pennsylvania Bulletin* in December for the following year. The threshold applies to the total purchase price of the contract, which may be a lump sum contract or a unit price contract.

A written record of telephone price quotes must be made, including the vendor's name, a description of the item or service, and the price. Records of informal written or telephone price quotes must be retained for three years.

Routine purchases that fall below the required base amount, which was \$10,500 in 2015, may be made by the secretary through an informal process. While these purchases do not need to follow a specific procedure by law, it is in the best interest of the municipality to request prices from multiple vendors. Governing bodies may require the secretary to obtain quotes for these small contracts and purchase the item or service, if the quality is satisfactory, based on the lowest price.

For all purchases, records must be kept for accounting purposes. Some municipalities use a purchase order, which is a form that is submitted to the vendor as evidence of authority to purchase. A copy is kept by the secretary. When the invoice is received, it is matched to the purchase order before payment is made.

Significant savings can be realized by reducing the practice of purchasing goods and supplies only as needed. Municipal needs should be projected for a year's time for each specific item and consolidated into a single bulk purchase awarded on the basis of competitive quotes or bids. Storage challenges can be dealt with by requiring periodic partial deliveries as needed at the contracted price.

Competitive Bid Purchases

Municipal contracts for goods or services that exceed the current bid threshold, which was \$19,400 in 2015, must be awarded to the lowest responsible bidder after a publicly advertised sealed bid process.³

Advertising notice of bids is the generally the secretary's responsibility. Legal advertisements must appear at least two times, at intervals of not less than three days, in a daily newspaper of general circulation, or once each week for two successive weeks in a weekly newspaper of general circulation. The advertisements must appear not more than 45 days nor less than ten days prior to the date set for opening bids. Plans and specifications must be on file and available at least ten days prior to the bid opening date. In addition to newspaper advertising, municipalities can advertise bid notices in publications or journals.⁴

The bid notice must be detailed enough to give prospective bidders a clear picture of the nature of the contract to be awarded. Notices must include a description of the item or project, a notice of the place and times where specifications may be obtained, when and where bids will be received and publicly opened and awarded (*may be different dates*), bonding requirements, and the deadline for receipt of bids. In addition, the advertisement may include a statement that the contract will be awarded to the lowest responsible bidder and language reserving the municipal right to reject all bids. The notice or bidders' instructions require the bids to be sealed and may specify the type of envelope or require it to be marked in a specific way for identification purposes.

Public advertising requirements for bids in the municipal codes are the minimum established by law to provide for fair competition. The municipality may send out unsolicited letters containing the bid advertisement language to prospective contractors or vendors who may be unaware of the advertisement. Maintaining lists of prospective contractors and alerting them to upcoming contracts can increase competition, which can reduce prices and increase quality.

There are some exceptions to the sealed bid process and secretaries should look to their municipal code for the list that applies to their community.⁵ These provisions list types of contracts that may be awarded without going through the sealed bid process. This includes purchases from another government entity, as well as personal and professional services.

Specifications

Secretaries may prepare specifications for minor or routine purchases or projects. It is critical that specifications be properly prepared or the municipality will fail to obtain the exact items and quality of service or material that is needed. Carefully prepared specifications will allow the municipality to reject bids that do not meet the quality level in the specifications. Lack of detail in the specifications can force a municipality to award a bid for a poor quality product or reject all bids and readvertise, leading to additional expense and project delays.

Projects paid for by liquid fuels funds need to be preapproved by the Pennsylvania Department of Transportation, including the specifications for the project. PennDOT officials can assist in preparation of bid specifications for road materials. PennDOT forms must be used for purchases using liquid fuels funds.

Many project specifications need to be prepared or reviewed by an engineer or solicitor to ensure that they are technically and legally correct. Standard forms can be required to ensure that the descriptions of the bids are in an easy to compare form and that all required details are included.

Bonding

Boroughs and cities may require bid bonds,⁶ which require each bid to be accompanied by a certified check or other security as a financial guarantee that the successful bidder will follow through with the transaction. The most common amount is 10 percent of the bid, although higher amounts are permissible. The secretary must return the checks of unsuccessful bidders after the contract has been awarded. The bid security of the successful bidder is withheld until the contracts have been signed and the contractor has provided the necessary performance and payment bonds.

All public works construction or maintenance contracts of \$10,000 or more require the successful bidder to provide a performance bond and a payment bond in the amount of 100 percent of the contract liability or other acceptable security.⁷ For third class cities, bonds for labor must be made at 100 percent of the contract amount for those involving labor, while lesser amounts may be required for purchases of vehicles and equipment.⁸

For other contracts in boroughs and townships, the codes require performance bonds of from 10 to 100 percent of the contract amount, established by the governing body, which must be provided within 20 days of contract award.⁹ Boroughs and first class townships may require the performance bond to be posted within 10 days. If the winning bidder fails to provide the bond, the contract is void. The contractor is released from the bonds after the governing body determines that all contract provisions have been met and the contract successfully fulfilled.

Compliance with Other State Laws

Municipal contracts must comply with several additional state laws, including the following:

The **Pennsylvania Prevailing Wage Act** requires public works contracts that meet a certain threshold to pay prevailing wage rates that are set by the state Department of Labor and Industry for all contracted labor.¹⁰ For certain road and bridge projects, including those paid for with municipal general funds and liquid fuels funds, the threshold was raised to \$100,000 by Act 89 of 2013. However, road projects paid for with dirt and gravel road funds remain at the \$25,000 threshold. For all other public works projects, such as buildings, water and sewer, stormwater, or other public works projects, the threshold remains at \$25,000. For projects that exceed these thresholds, the municipal secretary must obtain prevailing wage rates from the Department and include the rates in the bid specifications and legal advertisement. For more information on the Pennsylvania Prevailing Wage Act, go to **www.dli.pa.gov**.

Municipalities that are going out to bid on public works projects that are valued at \$25,000 or more must ensure that contractors are complying with the **Public Works Employment Verification Act of 2012**.¹¹ This includes requiring contractors to submit a Public Works Employment Verification Form as a part of their bid package and is a precondition for awarding the bid contract. For more information, go to **www.dgs.state.pa.us** and choose “Business Links” and then “Public Works Employment Verification Act.”

Cities and townships that are constructing or altering public buildings must comply with the separations provisions if the project will exceed the sealed bid threshold.¹² This requires that separate specifications be provided and separate bids accepted for plumbing, heating, ventilating, and electrical work. For boroughs, these provisions are optional.

All municipalities must require proof of workers’ compensation insurance for any contract that involves labor.¹³ The Steel Products Procurement Act requires all public works contracts to require the use of steel products made in the United States.¹⁴ The Motor Vehicle Procurement Act requires municipalities to purchase or lease motor vehicles manufactured or assembled in North America.¹⁵ When using federal monies for the construction, alteration, or repair of public buildings or public works and the project cost exceeds \$2,000, municipalities must comply with the wage rates and procedures in the Davis-Bacon Act.

Sealed Bid Contracts

The procedure for sealed bid contracts includes legal advertising, receipt of bids, opening bids, and awarding of the contract.¹⁶ Sealed bids must be received at the advertised location by the deadline specified in the public notice. Any bids that are late, not sealed, or otherwise do not meet the requirements in the notice must be rejected.

Bids can be received and accepted at a public meeting or at a specified time before the meeting. The contract may be awarded at the same meeting or at a subsequent meeting included in the bid notice. In boroughs and townships of the second class, if the announced meeting is not held, the award may be made at another meeting held after five days public notice. Townships of the first class require six days public notice.¹⁷

Simple contracts are generally awarded on the night of receipt. More complex ones are reviewed by professionals, such as engineers, to properly evaluate compliance with bid requirements and to accurately make computations. Votes to award contracts must be taken at public meetings. If there are any questions about a bid prior to award, it is recommended that the matter be tabled and the governing body consult with its solicitor prior to the award.

The codes require contracts to be awarded to the lowest responsible bidder. This does not always mean the lowest bidder. However, municipalities contemplating awarding a bid to other than the lowest bidder should consult their solicitor.

Intergovernmental Purchasing

Agreements with neighboring municipalities, school districts, or counties for joint purchasing are common. Secretaries can encourage joint purchasing by investigating the possibilities, learning the advantages (generally a better product or a lower price), and documenting for the governing body when intergovernmental purchasing presents the best option.

Municipalities can also purchase materials, supplies, equipment, and vehicles through the state Department of General Services' COSTARS Program, also known as cooperative purchasing or piggyback purchasing. COSTARS enters into contracts on behalf of local governments, which are exempt from the advertising and bidding requirements.

The governing body must first pass and file a resolution with the Department requesting authorization to participate in COSTARS. The municipality can then review available state contracts and COSTARS contracts for possible procurement. COSTARS contracts allow municipalities to pay reduced costs on purchases and save on legal advertising. Additional information is available by logging onto **dgs.pa.gov**.

REFERENCES

1. 53 P.S. 36901; Third Class City Code, Section 1901; 8 Pa. C.S.A. 1401; Borough Code, Section 1401; 53 P.S. 56801; First Class Township Code, Section 1801; 53 P.S. 68101; Second Class Township Code, Section 3101.
2. 8 Pa.C.S.A. 1402(a); Borough Code, Section 1402(a); 53 P.S. 56802(a.1); 53 P.S. 36901.2; Third Class City Code, Section 1901.2; First Class Township Code, Section 1802(a.1); 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
3. 53 P.S. 36901; Third Class City Code, Section 1901; 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
4. 45 Pa.C.S.A. 306; Newspaper Advertising Act.
5. 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 36901.4; Third Class City Code 1901.4; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102; Second Class Township Code, Section 3102.
6. 8 Pa. C.S.A. 1702; Borough Code, Section 1402; 53 PS 36901.6; Third Class City Code, Section 1901.6.
7. 8 P.S. 193.1; Public Works Contractors Bond Law, Section 3.1.
8. 53 PS 36901.5; Third Class City Code, Section 1901.5.
9. 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102; Second Class Township Code, Section 3102.
10. 43 P.S. 165-3 et seq.; The Pennsylvania Prevailing Wage Act
11. Public Works Employment Verification Act; Act 127 of 2012.
12. 8 Pa.C.S.A. 1405; Borough Code, Section 1405; 53 P.S. 36909; Third Class City Code, Section 1909; 53 P.S. 56805; First Class Township Code, Section 1805; 53 P.S. 68107; Second Class Township Code, Section 3107.
13. 62 Pa.C.S.A. 3752.
14. 73 P.S. 1885(a); The Steel Products Procurement Act.
15. 62 Pa.C.S.A. 3734; Motor Vehicle Procurement Act.
16. 53 P.S. 36901; Third Class City Code, Section 1901; 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102(a); Second Class Township Code, Section 3102(a).
17. 8 Pa. C.S.A. 1402; Borough Code, Section 1402; 53 P.S. 56802; First Class Township Code, Section 1802; 53 P.S. 68102; Second Class Township Code, Section 3102.

X. Human Resources Administration

In many municipalities, the secretary has some responsibility to carry out the decisions of the governing body after the hiring of municipal employees, such as orienting them to work assignments and responsibilities, filing paperwork, paying them, and administering benefits. Various state and federal laws give employees certain rights and restrict the actions that the governing body may take. These laws require reports to be made and records kept, which often becomes the secretary's responsibility. Even the smallest municipality needs to understand personnel rules, since the costs of being charged with discrimination or violation of a statute could bankrupt a community.

Hiring

Municipalities should work with their solicitor or special legal counsel to establish sound hiring practices and work to ensure that they follow the established procedures. This includes developing job descriptions, application forms, and personnel policies, as well as creating interview questions and tests for job applicants. These tools and procedures should be designed to find the most qualified candidate, while complying with the many state and federal laws governing hiring.

Job Descriptions. Hiring employees involves recruiting and selecting the most qualified person for the position. Job descriptions are effective tools that should include a general definition of the position's required tasks, examples of work experience and required knowledge, skills, and abilities. Essential functions are a critical component of a job description, which are the minimum mandatory skills or abilities needed to perform the job and should be used as a baseline when evaluating applicants. The establishment of training and experience requirements will help provide the municipality with qualified applicants and give prospective applicants details of the position's responsibilities. A well-crafted job description will prove helpful in the hiring process and, if used properly, can demonstrate the governing body's reasoning should a rejected applicant take issue with the decision either in court or at a public meeting.

Hiring Tools. Well-designed application forms can provide the municipality with important background information on the applicant's education, experience, and relevant personal information without asking questions which may be prohibited under state or federal law. Interviews, tests to demonstrate essential skills, and reference checks can also aid in selecting the most qualified candidate. Documentation of any hiring procedure, such as completed applications, test results, and interview notes, should be maintained as proof that applicable labor laws were followed.

Veteran's Preference. Veteran's preference is required for hiring in civil service and non-civil service situations. Additional points are assigned in civil service and for non-civil service positions, the municipality must hire the veteran when presented with equally qualified candidates.

Legal Resident. Federal law requires employers to verify that each employee hired is a United States citizen or authorized to work in the United States. These records must be kept on forms supplied by the U.S. Immigration and Naturalization Service.

Civil Service. Competitive examination programs that are provided by an appointed civil service commission are required to be used for the hiring and promotion of employees in certain positions. In boroughs and townships of the first class, police positions in police departments of three or more and fire apparatus operators in departments of three or more are subject to civil service.¹ In third class cities, uniformed positions in the police and fire department, except chief, are covered by civil service, as well as any other position that was considered to be civil service as of March 2014.²

Non-civil Service. When filling positions not covered by civil service requirements, a fair and objective process should be followed. Such a procedure helps to assure that qualified persons are hired and guards against practices which, even if unintended, may violate state or federal laws that prohibit discrimination based on race, sex, religion, age, or disability.

Pay

Job classifications and wage scales. Wage scales are commonly based on job classifications of duties and qualifications. A classification plan groups similar positions into classes by nature of work, level of difficulty, degree of responsibility, and training and experience requirements and ensures fair pay and benefits within the classes. Having a quality job classification system can help maintain management-employee relations.

For municipalities without such systems, consider developing an employee wage schedule based on what competing public and private employers in the area currently pay for similar positions, including the value of benefits such as health care and retirement plans.

Most municipal employees are covered under the federal Fair Labor Standards Act (FLSA).³ This act classifies positions by responsibility, requires that all positions receive a minimum wage, and requires covered employees (non-exempt employees) to be paid overtime if they work more than 40 hours a week, with higher limits for police and firefighters. It is critical that all municipalities be in compliance with the FLSA through accurate job classification and record-keeping to avoid penalties for noncompliance. Elected officials who are also municipal employees are exempt from the FLSA.

Benefits

Municipalities need to have personnel policies that clearly lay out the benefits provided to employees and must grant these benefits consistently and fairly to avoid discrimination claims. Benefits may only be based on whether a position is permanent or temporary, full- or part-time, or classes of employee. Personnel policies need to be reviewed by the solicitor or special counsel before they are adopted and at regular intervals to ensure compliance with labor laws.

Health insurance. While the municipal codes authorize health benefits for employees, the Affordable Care Act requires all employers with 50 or more full-time employees to provide a minimum level of health insurance coverage to their employees. The ACA defines a full-time employee as one who works an average of 30 or more hours per week.

Retirement. All the municipal codes authorize municipalities to provide retirement plans for employees. In some cases, the type of plan is left to the discretion of the governing body. In other cases, the type of plan is specified by law. For example, Act 600 of 1955 governs police pensions in boroughs and townships with a police force of three or more and requires retirement benefits to be computed in accordance with a formula in the act.

Municipalities must fully fund their pension obligations by setting enough money to pay for the benefit that it has agreed to provide to its employees. Act 205 of 1984 requires reporting to the state on the condition of municipal pension funds.

Paid Time Off. Local governments may provide paid time off for sick leave, vacation, holidays, or other reasons. Personnel policies may limit the amount of leave that can be accumulated, when it can be used, and the conditions under which a departing employee may be paid for unused leave. This requires maintaining accurate leave records.

State law guarantees municipal employees who are members of military reserve units up to 15 days leave per year to fulfill their military obligations. During such leave, employees must be paid their normal salary.

Expenses. Municipalities may cover all legitimate expenses of officers or employees while engaged in public business. Expenses must be documented, comply with municipal policies, and directly relate to the duties of the office. When using a personal vehicle for municipal business, secretaries may request mileage reimbursement. Such reimbursement must be made at a uniform rate set by the governing body.⁴

Labor Relations

Labor Relations Laws. The Public Employee Relations Act grants public employees the right to organize and requires employers to negotiate and bargain with employee organizations and enter into written agreements with the bargaining unit.⁵ The Act establishes procedures to protect the rights of the public employee, the public employer, and the public.

The Act lists unfair labor practices for both employers and unions. It is unlawful for employers to interfere, restrain, or coerce employees who are forming and administering a union. A union may not interfere with an employer who is complying with the Act, nor may it restrain or coerce employees to join or not join a union.

Act 111 authorizes police and paid firefighters to collectively bargain with their municipal employers over the terms and conditions of employment, including compensation, hours, working conditions, retirement, and other benefits.⁶ Act 111 provides for arbitration to settle disputes and requires compliance with collective bargaining agreements and findings of arbitrators. In addition, municipalities must comply with the Police Tenure Act when suspending, removing, furloughing, and reinstating police officers.⁷ This act gives police officers rights for hearings or appeals in cases of dismissal.

Employee Protection

State and Federal Labor Laws. A number of state and federal laws govern the treatment of employees and job applicants. These laws prohibit discrimination in employment based on race, religion, national origin, sex, age, and disability. They require that certain benefits be paid to employees injured on the job and they determine the procedure for employees who request a hearing after being terminated.

Municipalities can be subject to serious penalties for failure to adhere to state and federal labor laws. As such, it is strongly recommended that the governing body use legal counsel with labor law experience for reviewing job descriptions and personnel manuals and to provide guidance when making hiring, discipline, and firing decisions. It is critical to have the assistance of experienced legal counsel when bargaining with unions and ensuring compliance with union contracts.

For these reasons, it is usually wise to develop a policy requiring due process and just cause for any negative employment action taken against an employee. The municipal solicitor or special counsel should review the policy before formal adoption and should be consulted prior to an employee termination.

Workers' Compensation. State law requires municipalities to carry workers' compensation insurance in case of work-related injuries or illnesses to employees. Such insurance covers the costs of treatment for the injury or illness and also pays a portion of the employee's salary during any period of disability.

Unemployment Compensation. Municipal employees may be eligible for unemployment compensation if they lose their jobs through no fault of their own. The municipality pays the cost of this compensation.

REFERENCES

1. 8 Pa. C.S.A. 1171; Borough Code, Section 1171; 53 P.S. 55625; First Class Township Code, Section 625.
2. 53 P.S. 39401; Third Class City Code Section 4401.
3. 29U.S.C. 201et.seq.
4. 65 P.S. 371; 1981 P.L. 141, No. 46.
5. 43 P.S. 1101.101; Public Employee Relations Act.
6. 43 P.S. 217.1; 1968 P.L. 237, No. 111.
7. 53 P.S. 811; 1951 P.L. 586.

XI. Communication

The municipal secretary serves as a primary point of contact for those both within and outside of the municipality. The secretary is the person most likely to communicate with individual citizens or groups, the news media, other municipal officials and employees, the county, and the state. The secretary's role depends on developing relationships with others both inside and outside of the municipality.

Working with the Board or Council

To govern well, members of the governing body must be kept informed. A governing body member who is kept current on a situation or problem as it evolves is able to respond more appropriately than if they are blindsided with the issue. Secretaries play a critical role in relaying information to the members of the governing body. In larger municipalities, this responsibility may rest with the mayor or manager. But in many boroughs and townships, the secretary is the central information source.

The secretary should pass along all information to the entire board or council. The governing body should establish a written policy that clarifies the secretary's procedures for reporting information. The policy may specify which matters should be referred to a committee chair or entire committee, a department head, or presiding officer. In any case, it is critical that the secretary report all information directly to the entire board or council before releasing any information to the press, a citizen's group, or other individual.

It would be impossible to keep the governing body informed of every minor day-to-day occurrence, and as such the secretary must use their discretion to decide what to pass along immediately and what to report at a meeting. There is no single rule to help solve this challenge. Instead, each secretary should evaluate the circumstances and consider the desires of the governing body.

The subject matter, complexity of the problem, and level of citizen interest are three factors to consider in determining how to report a matter to the board or council. Sometimes the report should be a brief verbal summary, other times a simple memo will suffice, and sometimes a formal written report is needed. In all cases, keep it brief and stick to the facts.

Use of Electronic Communication

Electronic communication is used by municipalities on a daily basis. Municipal secretaries must keep in mind that use of any electronic communications for municipal purposes will create a record and that record may be considered a public record under the Right-to-Know Law, regardless of whether it is email, text, social media post, or other media format or method. As such, caution should be used in how these methods of communication are used.

The secretary should use a dedicated email account for municipal business. Personal accounts should not be used for municipal purposes. Members of the board or council should also have dedicated email accounts for municipal business, separate from any personal account. The courts have ruled that if a personal email account or cellular phone is used for municipal business, then emails and texts sent and received from that account or phone may be considered public records that are subject to disclosure. That also raises the possibility that personal emails and texts on that account or phone may be inadvertently disclosed as well.

A clear, written policy should be set for communicating electronically with members of the board or council. Communications should be sent to accounts that are dedicated for municipal business and from the secretary to a member or members of the board or council. While the members can certainly respond to the secretary, they should take care not to directly communicate with each other via email, particularly if that email relates to any subject matter that is or may be before the board or council and sent to a quorum of the board or council. Such emails may violate the Sunshine Law's requirement that members of governing bodies deliberate such issues at public meetings and create documentation of a violation.

Always be cautious when composing an electronic communication. If an issue is sensitive or confidential, a phone call may be the preferred communication method. At the same time, it may be necessary to memorialize a communication in writing. Realize that even a brief communication could be considered a public record and anticipate that someone outside the municipality may read the communication or it could be the subject of a news report. Even deleted electronic communications may be accessed if your municipality is faced with a lawsuit.

Working with the Solicitor

The municipal solicitor is appointed by, and serves, the board or council. The secretary's relationship with the solicitor varies depending on the extent of the secretary's duties and level of activity in the municipality, as well as policies and expectations of the governing body. Some secretaries work with the solicitor on a regular basis and have authorization to ask for legal assistance when needed. Others deal with the solicitor through the manager, presiding officer, or governing body, with limited direct contact.

Every municipality should have a clear policy of the types of items that must be reviewed by the solicitor. This list should include contracts, notices, ordinances, policies, and all legal matters. It is important to keep the solicitor informed of any potential legal matter so they have sufficient time to research and appropriately address the matter. Secretaries should encourage their board or council to seek the counsel of the solicitor on any questionable matter that could have legal implications and not attempt to resolve it without input.

Working with the Public

Every secretary comes into contact with the public daily and is often an important link between the municipality and its citizens. The secretary projects the image of the municipality and should attempt to make that image a positive one. The public should be made aware of the secretary's availability since some municipalities have full-time secretaries who have regular business hours in a municipal building, while others have part-time secretaries.

Although complaints are made to a variety of officials and employees, the secretary is often the primary contact for citizen concerns. Generally complaints are simple, honest requests of citizens for information, a specific service, or correction of a problem. Having a policy for complaints, including the use of standard forms and how to handle anonymous complaints, can provide clear guidance to the secretary and help to ensure that all are treated equally and that complaints are promptly referred to the correct official for investigation and follow-up, if needed.

Listening, responding, and informing are key elements to successful communication with your residents. If the secretary cannot or is not authorized to assist a citizen in particular circumstances, the secretary should direct the citizen to the official who can help them. Difficulty finding a definitive answer can give citizens the feeling of getting the runaround, especially if it becomes necessary for them to contact a number of individuals or offices for assistance or direction. In most communities, the citizens look first to the secretary either for a solution to their problems or for direction to the correct source. A secretary should be honest and responsive. If an answer is not immediately available, the secretary should say so. If a complaint primarily involves another citizen and is not a violation of law or a municipal ordinance and does not concern a municipal service, the citizens should be directed to resolve the issue between themselves.

Working with the Media

As stated before, the secretary serves as a major point of contact for information. It is common to see local reporters at a public meeting, particularly when there is a controversial issue on the agenda. To provide the most accurate information and be transparent, the secretary should work with reporters and provide them with the information they need, including financial reports, meeting agendas, and minutes. Try to develop a relationship with reporters who frequent your meetings to establish a rapport.

Public Relations Program

Governing responsibly in municipal government is not enough. It is critical to ensure that citizens and taxpayers are made aware of the services that are provided and how the board or council is working to ensure the continued delivery of these services at the best quality and most reasonable cost.

A number of Pennsylvania municipalities have developed public relations programs. This can include newsletters; annual reports; brochures explaining tax systems, bond issues, proposed projects, or specific services; open houses; municipal websites and a social media presence; citizen advisory committees; student government programs; and direct involvement of citizens or local groups in municipal programs.

The secretary should encourage and assist the board or council in formulating a public relations program. The goal should be to promote the municipality and provide public information in a positive manner. Any program should be reviewed regularly to see if it is effective at reaching citizens and taxpayers.

Use of Social Media

Today, citizens often rely on social media platforms such as Facebook and Twitter for news and information instead of television, newspaper, or radio. In addition to advertising legal notices, it is a good practice to post monthly meeting dates, hearings, and other advertisements on the municipal website, Facebook page, or Twitter account since the internet and social media tend to be the common way to find information.

Social media is a great tool for promoting township events, like parks and recreation programs. Consider advertising new business openings, community organization fundraisers, library events, and other community-oriented programs this way.

Communication between the secretary, who may be handling social media, and other departments is crucial. The secretary, who generally spends their time in the office, may not be aware of a road closure or an accident that just occurred. It is important to have open lines of communication between those out in the field and office staff to provide real-time updates to residents.

Secretaries should also be aware of how residents are using social media and tweak their strategy to engage as many people as possible. What platform has the most followers in your community? Which platform receives the most comments or feedback? These are questions to consider when creating a social media procedure or policy. Listening to your citizens and taking appropriate steps to respond to their social media posts is also very important. It demonstrates that you are actively listening and attempting to address their concerns.

XII. Land Use Planning and Control

The General Assembly has given the power and responsibility to plan for and control land use and community development to municipal government. If a municipality chooses not to plan for land use, the county may do so.

The Pennsylvania Municipalities Planning Code establishes the rules and regulations for a municipality to plan for community development through preparation of a comprehensive plan and to govern such development through zoning and subdivision and land development ordinances.¹ The MPC provides for the establishment of a planning commission or planning agency to advise the governing body on planning and zoning ordinances and to review proposed subdivision and land development plans. Zoning hearing boards consider appeals of zoning officer decisions, special exceptions, and variance requests. If a municipality misuses its authority, the MPC outlines the procedures an aggrieved person may follow to challenge the municipality's action.

In some municipalities, the secretary may be involved in one or more land use control activities. The secretary's land use role may include receiving and forwarding plans, plats, and other documents to appropriate local or county agencies and publishing or issuing public or individual notices. In some instances, the secretary may serve as secretary for the planning agency or may even become a member of the planning agency. In some municipalities, the secretary also serves as zoning officer.

Any role that a secretary has in the land use process is important to their municipality and the community as a whole. Municipalities must fairly and uniformly enforce their land use ordinances and the timeframes in the MPC must be strictly followed. Failure to properly track the time for submission of land use plans could lead to a deemed approval of a noncompliant plan and/or legal challenges for the municipality.

Copies of the MPC and numerous other publications about municipal planning and zoning are available from the Governor's Center for Local Government Services at dced.pa.gov.

Comprehensive Plan

The comprehensive plan is a picture of how a community wants to look in the future, as determined by the governing body after substantial public input. The comprehensive plan should provide a vision of the future and allow other ordinances, such as the zoning ordinance and the subdivision and land development ordinance, to fill in the gaps and create the mechanisms to reach this desired goal. A municipality's zoning ordinance must be generally consistent with its comprehensive plan and the county comprehensive plan.

The MPC encourages intergovernmental cooperation through multimunicipal planning by providing incentives, such as the ability to plan for every use within the area of the multimunicipal plan versus the requirement to plan for every use within every municipality. State agencies are directed to consider and rely upon multimunicipal plans and zoning ordinances in their funding and permitting processes. The Governor's Center for Local Government Services provides technical assistance on land use issues, including multimunicipal plans and implementing ordinances.

The preparation of a comprehensive plan is time intensive and requires considerable data collection and analysis, planning, and ample opportunity for public input. The MPC contains specific requirements for comprehensive plans, which must include the municipality's objectives for future growth and development; plans for the amount and intensity of various uses, housing needs, transportation, and future community facilities and utilities; and how the development plan is compatible with adjoining municipalities.

Once the comprehensive plan is adopted, a municipality may prepare a draft zoning ordinance and official map and a subdivision and land development ordinance. However, a subdivision and land development ordinance can be enacted without waiting for the comprehensive plan to be complete.

For more about the comprehensive plan, see publication *No. 3 – The Comprehensive Plan*, which is available from the Governor's Center for Local Government Services at dced.pa.gov.

The Subdivision and Land Development Ordinance

Subdivision regulations govern the division of land into lots. The municipality may regulate subdivision and land development by enacting a subdivision and land development ordinance. These ordinances require that all plots of land within the municipality be submitted to the county and municipal planning commission for review. The municipal planning commission provides recommendations to the governing body for final approval, unless the governing body in its ordinance has given the municipal planning commission the responsibility for granting final approval. A plat is the map or plan of a subdivision or land development.

Subdivision regulations require developers to pay for the infrastructure costs of a subdivision or development, including sewer and water service, streets and curbing, storm sewers and drainage, and street lighting. State law restricts the levy of transportation impact fees for off-site development to only those municipalities that have adopted a transportation capital improvements plan that is based on a roadway sufficiency study. The levy of, and calculations for, tap-in fees for connecting to municipal or authority-owned water and sewer systems is regulated by the Municipality Authorities Act.

Subdivision and land development regulations affect how a community looks and functions into the future. By carefully drafting subdivision standards and designs, a community can maintain quality standards for improvements, attempt to coordinate development with the availability of public facilities, and create a pattern of development that will attract and retain residents and business.

For more about the SALDO, see publication *No. 8 – Subdivision and Land Development In Pennsylvania*, which is available from the Governor’s Center for Local Government Services at dced.pa.gov.

The Zoning Ordinance

Zoning is a tool to regulate the use of land and structures. The zoning ordinance specifies the types of activities that are permitted in various areas, or zones, of the municipality, such as residential, commercial, industrial, and agricultural. The zoning ordinance must be generally consistent with the county and municipal comprehensive plan, if one has been adopted, and must comply with the provisions of the MPC. Unless the municipality has adopted a multimunicipal plan, the zoning ordinance must provide for every type of use within the municipality’s borders.

Zoning ordinances, and amendments to zoning ordinances, are prepared or reviewed by the municipal planning commission. The zoning ordinance and zoning classifications should be based on the most current information about the municipality and the areas where future development or redevelopment is expected to occur. It is common to hire a professional planner or use the county planning office for assistance with the drafting of the ordinance and preparation of maps.

For more about zoning, see publication *No. 4 – Zoning*, which is available from the Governor’s Center for Local Government Services at dced.pa.gov.

Secretary’s Role in Land Use

Municipal secretaries are often responsible for much of the day-to-day administration of land use ordinances. This may involve keeping track of when subdivision and land development plans are received, coordinating with the planning commission and governing body for review and approval, receiving financial security from developers, and notifying developers when their bond is released following acceptable completion of all improvements. The secretary often coordinates with the zoning hearing board to ensure that they meet when needed. The secretary should keep track of the terms of the individuals appointed to the planning commission and zoning hearing board so that positions can be filled by the governing body. The secretary also works with the solicitor to draft and place legal advertisements, post notices, and ensure approved plans are recorded with the county recorder of deeds.

The municipal solicitor or special counsel should review all proposed land use ordinances or amendments to land use ordinances. If prepared by the municipal planning commission, it must hold a public hearing and make a recommendation to the governing body on the proposed documents. If not prepared by the municipal planning commission, the proposed documents must be referred for its review.

The ordinance may be adopted by the governing body after holding public hearings and the county planning commission has had an opportunity to comment on the proposed documents.

Generally, secretaries are responsible for working with the solicitor to place the legal notices needed for adoption of, or amendment to, any land use ordinance. This includes legal advertisements for public hearings, which under the MPC must run once a week for two consecutive weeks, not more than 30 days and not less than seven days before the public hearing. These ordinances must also be advertised for final adoption under rules in the municipal codes.

Municipal secretaries must record newly adopted or amended land use ordinances in the municipal ordinance book and ensure they are filed with the county law library (*or other office designated to receive ordinances*) and the county planning agency.

Historic Districts

The Historic Districts Act permits townships to designate certain areas as historic districts that are subject to special controls² and are intended to protect the local architectural and historic heritage of the community. The boundaries of the district are defined by surveys of local architectural and historic resources. The controls regulate the demolition or alteration of existing buildings, as well as new construction within the district. Regulations on building spacing, type of materials, and architectural details are intended to preserve the appearance of the district.

If a municipality has enacted historic districts, the secretary may be involved in notice and permitting activities.

Agricultural Preservation

The Agricultural Area Security Law authorizes governing bodies to create agricultural security areas that have at least 250 acres of viable agricultural land.³ Land within a designated agricultural area is given protection from local ordinances that would restrict normal farming operations and safeguards the land against eminent domain condemnation by state and local agencies and public utilities.

Creation of an agricultural security area begins with a proposal from one or more landowners that is submitted to the governing body and then the county and municipal planning commissions and municipal agricultural security area advisory committee for review. After reports are submitted to the governing body, a public hearing must be held before a final decision is made.

Land within an Agricultural Security Area is eligible to participate in the Pennsylvania Agricultural Conservation Easement Purchase program, which allows farmers to sell agricultural conservation easements funded by the state, county, or municipal government. Purchase of conservation easements allows the property to continue to be privately owned, but restricts development on the land to protect prime agricultural land.

If a municipality has agricultural security areas, the municipal secretary may be responsible for placing public notice of proposals, receiving proposals for modifications, publishing notice of hearings and providing written notice to property owners, organizing the public hearing, and filing the description of the designated area.

Floodplain Regulations

Federal and state laws require flood-prone municipalities to adopt regulations that address minimum standards for the 100-year flood plain established both by the National Flood Insurance Program Act and the Pennsylvania Floodplain Management Act.⁴ The National Flood Insurance Program provides coverage for structures within municipalities that participate in the National Flood Insurance Program. Municipalities not participating in the program will be denied federal financial assistance, including disaster assistance for acquisition and construction activities within identified flood hazard areas. Lending institutions must notify borrowers of flood hazards and whether or not federal disaster relief will be available in the event of a flood.

Floodplain regulations manage floodplains and minimize damage caused by flooding and may be found in zoning ordinances, building codes, subdivision regulations, and stand-alone floodplain management ordinances. Municipalities may adopt regulations that exceed state and federal standards. Municipal secretaries are often involved in the enactment and administration of floodplain regulations and may issue permits under these ordinances.

REFERENCES

1. 53 P. S. 10101; Pennsylvania Municipalities Planning Code, Section 101.
2. 53 P.S. 8001 et seq.; Municipal Historic Districts Law.
3. 3 P.S. 901 et seq.; Agricultural Area Security Law.
4. 32 P.S. 679.101; Flood Plain Management Act.

Pennsylvania Department of Community & Economic Development
Governor's Center for Local Government Services
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

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