

April 29, 2021

**Annual Meetings for
Lake Districts During
COVID in 2021**

Thursdays
@4:00



This webinar series is brought to you by the Wisconsin Lakes & Rivers Partnership.

FREE WEBINAR

Agenda

- ▶ Lake districts vs lake association meetings
- ▶ Open Meetings Law
- ▶ Commissioner meetings – the basics
- ▶ Annual meetings – the basics
- ▶ Meeting in a pandemic – lessons learned



District vs Association meetings

Lake Districts

- ▶ Specific statutory provisions must be followed
- ▶ Open Meetings & Records laws apply
- ▶ Content & process for annual meeting set by statute

Lake Associations

- ▶ Few statutory guidelines, look to bylaws
- ▶ Open Meetings & Records laws generally not applicable
- ▶ More flexibility in annual meetings



Open Meeting Law & Lake Districts

Atty. Christa O. Westerberg

Pines Bach




**WISCONSIN
LAKES**



OPEN MEETINGS DURING COVID AND BEYOND

Christa Westerberg
April 29, 2021





Information provided in this presentation is of a general nature and intended to summarize recent guidance from the Wisconsin Department of Justice. It is not legal advice.

If you have questions about how the Open Meetings law should be applied in a specific circumstance, consult your lake district's attorney.



BASIC OPEN MEETINGS LAW REQUIREMENTS

- 1) Reasonably accessible to members of the public
- 2) Preceded by Public Notice
- 3) Held in open session unless an exemption applies

Wis. Stat. sec. 19.81 *et seq.*



Is Virtual “Reasonably Accessible”? Wisconsin Department of Justice Guidance:

- Telephone Conference Calls – yes, since 1978.
- Zoom and similar platforms – yes, at least during COVID, and after if a virtual option will “increase accessibility”
- Provide phone option
- Remote access may not be “reasonable accessible” if discussing a complex plan for display or when demeanor of a witness is significant.
- Speakers should identify selves
- TDD accommodation may be necessary.



Open Meetings During COVID and Beyond |

Is NOT Virtual “Reasonably Accessible” During a Pandemic?

Wisconsin Department of Justice Guidance:

- “Governmental bodies should keep the public health situation, guidance of public health professionals, and health concerns of the public in mind when making decisions about how open meetings are conducted.”
- Masks
- Remote Access



Public Notice for Virtual Meetings

Include the information needed for remote access

- teleconference dial-in information
- video link
- any necessary log-in information or passcodes

When possible, record the meeting and promptly make the recording publicly available on a website or social media




Open Session:

“Same as it ever was”



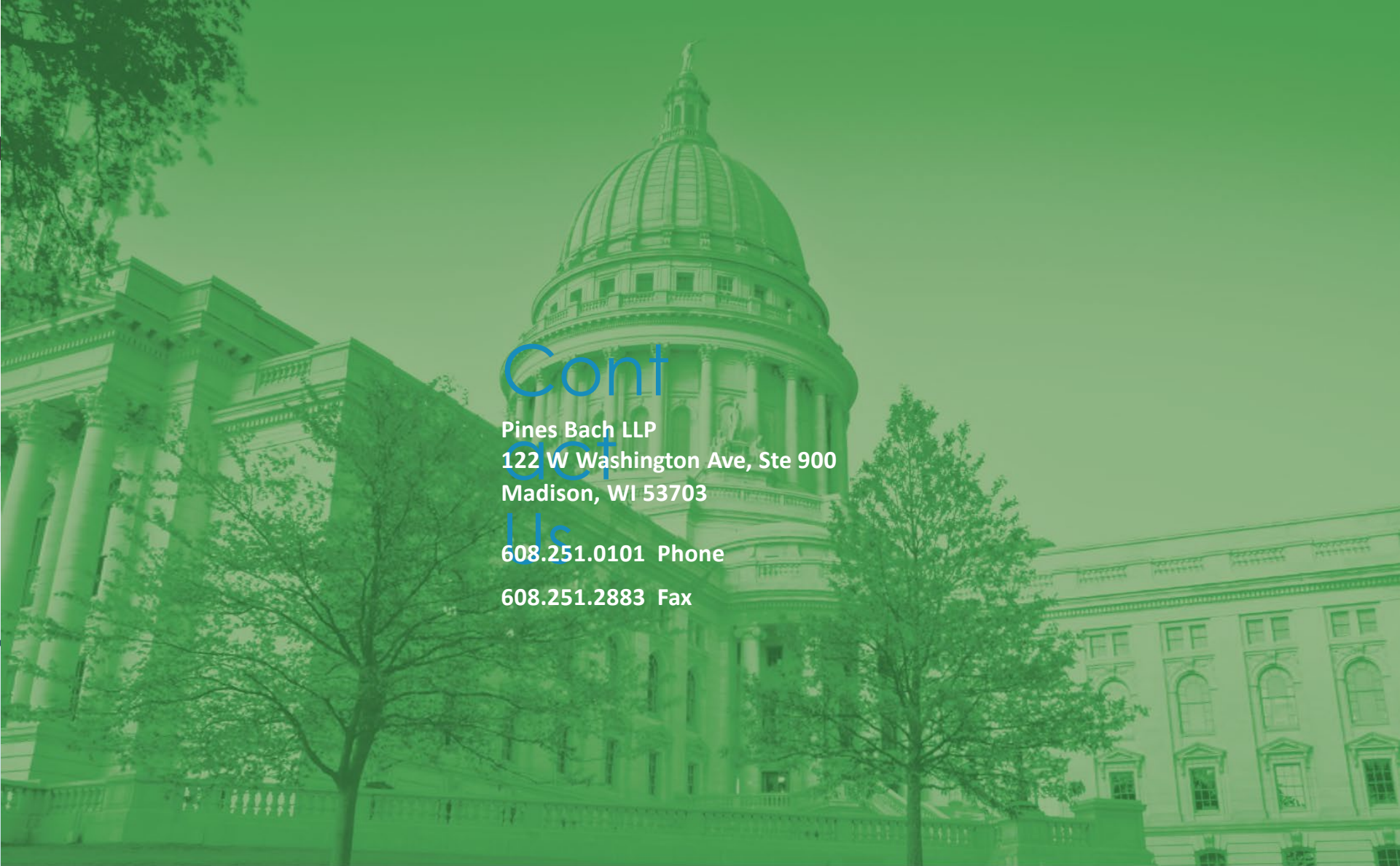
1. Hold Meetings in Open Session Unless a Specific Exemption Applies
2. Beware of electronic communications, side text chains, comments in Zoom
3. Make a record of motions and roll call votes





Wisconsin Department of Justice, Office of Open Government

<https://www.doj.state.wi.us/office-open-government/office-open-government>



Cont

Pines Bach LLP
122 W Washington Ave, Ste 900
Madison, WI 53703

608.251.0101 Phone

608.251.2883 Fax



WISCONSIN
LAKES

B PINES BACH
Personal Service. Positive Outcomes.

Lake District Board of Commissioner Meetings ~ The Basics

- ▶ Must meet quarterly (33.28(6))
 - ▶ Other times on call of the chair or petition of 3 commissioners
- ▶ Subject to open meetings and open records law
- ▶ Conducts the business of the district, executes the powers of the board (33.29)



Lake District Annual Meetings ~ The Basics

- ▶ Held between May 22 and Sep 8 “unless scheduled outside those dates by majority vote of the previous annual meeting” (33.30(1))
- ▶ Notice mailed 14 days in advance to (33.30(2)(a)):
 - ▶ Electors (or use a Class 2 notice)
 - ▶ Property owners*
 - ▶ DNR
- ▶ No absentee or proxy ballots allowed (33.30(2)(b))



Lake District Annual Meetings ~ The Basics

- ▶ Notice must include (33.30(2m)):
 - ▶ Proposed annual budget
 - ▶ Items for consideration added by Board of Commissioners
 - ▶ Items for consideration by persons eligible to vote at annual meeting
 - ▶ Must relate to issues w/i district authority
 - ▶ Submitted by petition to board at least 30 days before meeting
 - ▶ Signed by eligible voters totaling at least 20% of taxable parcels



Lake District Annual Meetings ~ The Basics

- ▶ At the annual meeting electors & property owners **MUST** (33.30(3)):
 - ▶ “Elect by **secret ballot**” commissioner slots up for election
 - ▶ Approve a budget
- ▶ At the annual meeting electors & property owners **MAY** (33.30(4)):
 - ▶ Levy a property tax
 - ▶ “Other business”
 - ▶ Establish compensation for directors
 - ▶ Create an ongoing fund for specific capital costs and capital maintenance



Lake District Annual Meetings ~ The Basics

- ▶ Elections (33.30(5))
 - ▶ Ballots only distributed to qualified voters at the meeting
 - ▶ No ballots distributed after voting commences
 - ▶ Election by secret ballot (33.30(3)(a))
 - ▶ Ballots counted and results announced **at the meeting**
 - ▶ Recount if requested by “elector or candidate”
- ▶ Only applies to election of commissioner



Lake District Annual Meetings ~ The Basics

- ▶ Def of “property owner” for voting (33.01 (9))
 - ▶ U.S. citizen 18 or older and one of the following:
 - ▶ Name appears on tax roll
 - ▶ Owns title to real property but name does not appear on tax roll
 - ▶ “Official representative, officer, or employee who is authorized to vote on behalf of a trust, foundation, corporation, association or organization that owns real property in the district”



Lake District Special Meetings ~ The Basics

- ▶ 33.305
- ▶ Scheduled at the call of the board of commissioners, or
- ▶ Petition signed by at least 10% of electors and property owners in the district
 - ▶ Here “property owner” is defined as person who appears on tax roll and their spouse (33.01(9)(am))
- ▶ Notice required
- ▶ Action at special meeting may be anything at annual meeting, except cannot:
 - ▶ Approve budget (may consider and vote on amendments)
 - ▶ Consider dissolution or dissolving the district
 - ▶ Consider matter resolved at another special meeting since the annual meeting
- ▶ No absentee ballots or proxies



How to meet in a (waning, we hope) pandemic

- ▶ Law is the law
- ▶ Maximize participation
- ▶ Work with local health authorities
- ▶ Strategies from 2020
 - ▶ Meet virtually when possible
 - ▶ Meet outside, promote safe practices (masks, social distancing)
 - ▶ Shorten meeting by providing reports and non-actionable presentations early



Thanks for joining us!

Michael Engleson

Executive Director

Wisconsin Lakes

PO Box 7723
Madison WI 53707

mengleson@wisconsinlakes.org
(608) 661-4313

Christa Westerberg

Attorney

PinesBach

122 W Washington Ave, Ste 900
Madison WI 53703

cwesterberg@pinesbach.com
(608) 251-0101

Eric Olson

Director & Lakes Specialist

Extension Lakes

800 Reserve St
Stevens Point WI 54481

eric.olson@uwsp.edu
(715) 346-2192

Upcoming “Thurs @ 4” Topics

May 6 ~ Liability & Insurance: For Lake Districts and Lake Associations

May 13 ~ Lake District Treasurer 1: Before the Annual Meeting

May 20 ~ Local Boating Enforcement Grants

May 17 ~ Lake Association Capacity Training

June 3 ~ Electronic Communications, Websites, and Lakekit.net

June 10 ~ Regulating Recreation on Lakes: Carrying Capacity

