

# Michigan Association of Municipal Clerks Clerking 101 Boot Camp

June 20 – 21, 2022

Acme Township, MI

# MAMC Clerking 101



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# MAMC Clerking 101

- **Welcome and Introductions**

# MAMC Clerking 101 Agenda

## Day 1

- Ethics and Codes of Conduct
- Oaths of Office
- Agendas, Minutes & Resolutions
- Break
- Governing Laws and Ordinances
- Lunch
  
- Q&A
- Parliamentary Procedure
- Open Meetings Act
- Break
- Freedom of Information Act
- Adjourn

# MAMC Clerking 101 Agenda

## Day 2

- Clarifications & Questions
- Elections & Audits
- Break
- Records Retention & Management
- Lunch
- Q&A
  
- Governmental Accounting
- Budget Information
- Break
- Licensing
- Resources & Next Steps
- Adjourn

# MAMC Clerking 101

## Ethics and Codes of Conduct

- International Institute of Municipal Clerks
  - Code of Ethics
- City, Village, and Township Ethic Ordinances
- Model Ethics Ordinance for Local Units of Government
  - Local Governmental entities may, by ordinance, establish and enforce ethics for local public officials and public employees to the extent provided by law and/or charter.
  - Home Rule City Act, MCL 117.3(k) & 114.4i
  - General Law Village Act, MCL 66.1 – MCL 66.14
  - Home Rule Village Act, MCL 78.24(b)
  - Charter Township Act, MCL 42.21(5)
  - Township Ordinances Act, MCL 41.181 – 187 & MCL 46.11(j)

# MAMC Clerking 101

## Ethics and Codes of Conduct,

### cont.

#### **Josephson Institute of Ethics, Five Principles of Ethics:**

- **1. Public office is a public trust.**
  - Public servants should treat public office as a public trust, using the powers and resources of public office only to advance public interest, and not to attain personal benefits or pursue any private interest incompatible with the public good.
- **2. Principle of independent, objective judgment.**
  - Public servants should employ independent, objective judgment in performing their duties, deciding all matters on the merits, free from conflicts of interest and apparent improper influences.
- **3. Principle of accountability.**
  - Public servants should assure that government is conducted openly, efficiently, equitably, and honorably in a manner that permits the citizenry to make informed judgments and hold government officials accountable.
- **4. Principle of democratic leadership.**
  - Public servants should honor and respect the principles and spirit of representative democracy and set a positive example of good citizenship by scrupulously observing the letter and spirit of the laws and rules.
- **5. Principle of respectability and fitness for public office.**
  - Public servants should safeguard public confidence in the integrity of government by being honest, fair, caring, and respectful and by avoiding conduct which creates the appearance of impropriety or which is otherwise unbecoming a public official.

# MAMC Clerking 101

## Ethics and Codes of Conduct,

### cont.

#### STANDARDS OF CONDUCT FOR PUBLIC OFFICERS AND EMPLOYEES (EXCERPT) Act 196 of 1973

##### 15.342 Public officer or employee; prohibited conduct.

###### Sec. 2.

- (1) A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed for its authorized release to the public.
- (2) A public officer or employee shall not represent his or her personal opinion as that of an agency.
- (3) A public officer or employee shall use personnel resources, property, and funds under the officer or employee's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.
- (4) A public officer or employee shall not solicit or accept a gift or loan of money, goods, services, or other thing of value for the benefit of a person or organization, other than the state, which tends to influence the manner in which the public officer or employee or another public officer or employee performs official duties.
- (5) A public officer or employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority...
- (6) Except as provided in section 2a, a public officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties.
- (7) Except as provided in section 2a, a public officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the public officer or employee has a financial or personal interest.



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## Ethics and Codes of Conduct,

### cont.

- Well drafted ethics ordinances should provide clarity to public officials and employees as to behavior necessary to instill trust and faith in government.
- An ordinance may be aspirational and/or punitive.
- An aspirational ordinance provides guidance to public officials and employees as to expected and prohibited conduct.
- An ordinance that is also punitive provides civil and/or criminal penalties for violations.
- Collective bargaining agreements must be given consideration.

# MAMC Clerking 101

## Ethics and Codes of Conduct

- Sections to consider:
  - Purpose and Definitions
  - Standards of Conduct
  - Ethics Ombudsperson or public advocate (one that is appointed to investigate and address complaints)
  - Board of Ethics (optional)
  - Filing and Disposition of Complaints (used in place of Board of Ethics)
  - Sanctions
- Always refer to your Charter!!

# MAMC Clerking 101

## Oaths of Office

- State Constitution (excerpt)

All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

- Authorized to Administer:

- |                       |  |                          |
|-----------------------|--|--------------------------|
| • City Clerk          | All offices <sup>1</sup>   | MCL 168.499, 87.6        |
| • County Clerk        | All offices <sup>1</sup>   | MCL 600.571, 600.1440(1) |
| • Mayor of City       | Governor, Attorney General,<br>Secretary of State, Lieutenant Governor | MCL 15.37                |
| • Notary Public       | All offices <sup>1</sup>   | MCL 15.37, 600.1440(1)   |
| • Township Clerk      | All offices <sup>1</sup>   | MCL 168.363, 168.499     |
| • Village Clerk       | All offices <sup>1</sup>   | MCL 64.5, 168.499        |
| • Township Supervisor | Township Officers  | MCL 41.64b               |
- <sup>1</sup> Excluding Governor, Attorney General, Secretary of State, Lieutenant Governor, or member of State Senate or State House.
  - <sup>2</sup> Excluding member of State Senate or State House.

# MAMC Clerking 101

## Agendas and Minutes

- An agenda is the order of business for a meeting. The items included and the order in which they are taken should be adopted as a board policy, and may be included as a larger policy on rules of procedure.
- Agenda sections may include:
  - Heading
  - Call to Order
  - Roll Call
  - Pledge of Allegiance
  - Invocation \*
  - Approval of the Agenda
  - Approval of the Minutes
  - Public Comment
  - Consent Agenda
  - Approval of Bills/Payments (may be in Consent Agenda)
  - Reports from Departments
  - Unfinished Business
  - New Business
  - Adjournment

# MAMC Clerking 101

## Agendas and Minutes, cont.

### Electronic Agendas and Packets

- Some communities are moving from a paper agenda packet to a "paperless" agenda, distributed electronically via e-mail or web site posting, eliminating most or all of the copying and distribution of agenda materials. This can be done using word processing documents which incorporate hyperlinks, or for communities which frequently have maps and other attachments which must be scanned, by using Adobe to create PDF documents. There are also software products specifically designed to manage agenda packet creation.
- Board members then use laptop, iPad, or network computers to access their agenda material, which they can mark up or highlight as they wish.
- Advantages include a reduction in copying time and expense, easier distribution to members of the media and the general public of the entire packet through email or a web site, and use of search features in either word processing documents or the PDF format.
- Disadvantages include the investment in computer equipment, software and training for staff and council members.
- **Retention** - Any documents, including agendas, proposed resolutions and any background material such as memos, maps, etc., that is presented to a board for their consideration, is a permanent record. One complete set of the agenda "packet" is retained as a permanent record.

# MAMC Clerking 101

## Agendas and Minutes, cont.

### **Public Comment**

- This is the first opportunity for the public to speak at the meeting.
- Some boards limit this section to items on the agenda only, and provide a second public comment period at the end for comments on any topic.
- The board's Rules of Procedure should spell out any time limits and other requirements for public comment (subject to the Open Meetings Act).
- It is usually recommended that if a board only has one public comment period, that it be early in the meeting, before votes are taken on agenda items.
- Some boards, however, allow public comment at the time each agenda item is taken up.
- If the boards rules of procedure ask people to "sign up" to speak at the meeting, here is a sample form:

# MAMC Clerking 101

## Agendas and Minutes, cont.

### **Public Comment, cont.**

- If the boards rules of procedure ask people to "sign up" to speak at the meeting, here is a sample form:

PLEASE COMPLETE THE FORM BELOW IF YOU WISH TO ADDRESS THE CITY COUNCIL:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Subject: \_\_\_\_\_

If the item on which you wish to speak is a scheduled agenda item, please hold your comments until that time.

Please hand to either the Mayor or Clerk before the start of the meeting. Thank you.

# MAMC Clerking 101

## Agendas and Minutes, cont.

### Minutes

- Minutes are the only official, permanent record of a meeting of your board, council or commission.
- Robert's Rules of Order, Newly Revised, 10th Edition has this to say about minutes: "...they should contain mainly a record of what was *done* at the meeting, not what was *said* by the members."
- Minutes can vary from a detailed record of discussion to a simple stating of motions and resolutions adopted. This is a matter of preference and local custom, and may change over time, as the membership of the board, or the occupancy of the office of Clerk, changes.
- The format of the minutes should follow the format of your agenda.



# MAMC Clerking 101

## Agendas and Minutes, cont.

### **Minutes – MCL 15.269**

- A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer.
- The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.
- A public body shall not include in or with its minutes any personally identifiable information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

# MAMC Clerking 101

## Agendas and Minutes, cont.

### **Minutes – MCL 15.269**

- Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held.
- The minutes shall include all roll call votes taken at the meeting.
- The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction.
- Minutes are public records open to public inspection, and a public body shall make the minutes available at the address designated on posted public notices pursuant to section 4.
- The public body shall make copies of the minutes available to the public at the reasonable estimated cost for printing and copying.
- A public body shall make proposed minutes available for public inspection within 8 business days after the meeting to which the minutes refer. The public body shall make approved minutes available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.

# MAMC Clerking 101

## Agendas and Minutes, cont.

- **Requirements**

- Either the title or the opening paragraph should give the name of the body, the date and time of the meeting, where it was held, and who called the meeting to order.

- **Members Present**

- Identify which members were present and which were absent. The listing of staff members is optional, and may be helpful for work or study session meetings, where staff members participate in the discussion.

- **Preparation**

- The Open Meetings Act requires that draft minutes be available to the public within 8 days following the meeting. Approved minutes must be available within 5 days after approval. A clerk may find that the sooner the minutes are prepared after the meeting, the easier they are to do.

- **Corrections**

- Draft minutes which are corrected after submission to the board for review must be corrected in ink, not changed by editing and reprinting the electronic document. Deletions should be lined out with a single line, and additions or corrections inserted with a carat and written in the margin, with the initials of the Clerk.

# MAMC Clerking 101

## Agendas and Minutes, cont.

- **Motions**

- Robert's Rules of Order says that failed or withdrawn motions need not be recorded in the minutes unless it is necessary for clarity. It is the policy of some boards to include all motions, whether passed, failed or withdrawn.

- **Comments / Discussion**

- The inclusion of comments and discussion by board members and by members of the public varies widely. The comments may be attributed and detailed, or summarized by consensus of opinion. Some communities include no comments or discussion at all in the minutes. Experienced clerks have found that it is possible to "wean" boards used to detailed minutes by fair, even-handed and judicious summarization of discussion, to a record more focused on *what is done, not what is said*.

- **Votes**

- Review your charter or controlling statute for any requirements as to roll call votes, and the recording of votes. If a roll call vote is done, the result should be listed.
- Examples:
  - Roll call vote: 7 ayes, 0 nays
  - Roll call vote: 6 ayes, 1 nay (Smith)
  - Roll call vote: 6 ayes, 0 nays, 1 abstained (Smith)
  - Roll call vote: Yes: Jones, Smith, VanBergen, Johnson, Chin. No: Smythe. Absent: Carruthers.

# MAMC Clerking 101

## Agendas and Minutes, cont.

- The order that members are called on for roll call votes varies. Some clerks pick a member at random at the beginning of each meeting, then move through a rotation throughout the meeting. Some communities require that the mover be called first, then the seconder, then alphabetically, with either the Mayor voting last, or within the rotation.
- **Late-comers, Early-goers**
  - If a board member arrives late, or leaves early, the minutes should reflect this. For example, "Council Jones arrived at 7:52 p.m." should be entered on a separate line at a point in the proceedings where it is clear in which discussion and votes that member participated.
- **Signing**
  - Minutes must be signed by the Clerk of the board.
  - They may also be signed by the chairman of the board, such as Mayor, President or Supervisor, depending on local policy.
  - Michigan Municipal League states, after indicating that the meeting was adjourned, the recorder's name and title should follow on the fourth line down. The minutes are then signed in black or blue ink.

# MAMC Clerking 101

## Agendas and Minutes, cont.

- **Publishing Minutes**

- MCL 41.72a – General Law Township
  - The Township Board not more than 21 days after a meeting, shall publish the proceedings of the meeting in a newspaper of general circulation in the township.
  - The publication of a synopsis of the proceedings, prepared by the township clerk and approved by the supervisor, showing the substance of each separate proceeding of the board is a sufficient compliance with the requirements of this subsection.
- MCL 42.8 – Charter Township
  - The proceedings of the township board shall be published at least once each month.
  - A publication of a synopsis of the proceedings, prepared by the township clerk and approved by the supervisor, showing the substance of each the proceedings of the board is in compliance with this section.
  - The board shall determine the method of publication of all notices, ordinances, and proceedings for which the method of publication is not prescribed by law.

# MAMC Clerking 101

## Agendas and Minutes, cont.

- MCL 42.8 – Charter Township, cont.
  - In making a determination under subsection (2), the board shall require 1 or both of the following:
    - (a) That publication be made in a newspaper published and circulated in the township or, if no such newspaper exists, then in one published in the county in which the township is located.
    - (b) That publication be made by posting in the office of the clerk and in 5 other public places in the township or by posting in the office of the clerk and on the township's website.
  - (4) If publication is made by posting under subsection (3)(b), a notice of the posting describing the purpose or nature of the notice, ordinance, or proceeding posted and the location of the places where posted shall be published at least once in a newspaper as required under subsection (3)(a) within 7 days of the posting.

# MAMC Clerking 101

## Agendas and Minutes, cont.

- **Voting**

- Can a member abstain from voting without disclosing the reason? Is the abstention counted as a yea or nay?
- Answer:
  - It depends. State law does not require village or city council members to declare the reason for an abstention.
  - However, many home rule city and village charters require the council member to do so, and the Charter Township Act (MCL 42.7) requires members of the township board to receive the unanimous approval of the other members of the board to abstain.
  - An abstention is neither a yea or nay vote, and therefore, not counted. It upholds the will of the majority. If the member does not leave the council chamber, they are included in the quorum count.



# MAMC Clerking 101

## Agendas and Minutes, cont.

### **Closed Session Minutes**

- A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session. These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13. These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

# MAMC Clerking 101

## Resolutions

- A resolution is a more formal way of taking board action.
- Advantages of using resolutions to take board action:
  - The opportunity to clearly word the action in advance, avoiding vague motions that need to be amended, clarified, withdrawn, and made again.
  - Creating a permanent record of board action separate from the minutes.
  - Creating a concise summary of why the board took a particular action.
- Resolutions DO NOT have more “power” than motions.

# MAMC Clerking 101

## Resolutions, cont.

- **Parts of a resolution:**
  - **Title:** should provide a brief description of the purpose.
  - **Numbering:** may be numbered consecutively throughout time, or they may be numbered each year.
  - **Whereas clauses:** simply lay out the facts of why the resolution needs to be adopted.
  - **Resolved clause:** describes the action being taken.
  - **Adoption:** the mover and seconder of the motion listed, the date of the meeting, and type of meeting.
  - **Signature:** signed by the Clerk (can be signed by both the Clerk and the board chairman).
  - **Certification:** should be signed by the Clerk.
- **Retention:** original copy are permanent record.

# MAMC Clerking 101

## Governing Laws and Ordinances

- CHARTER –Read it! (borrrrrring!!!!!!)
- Home Rule Cities Act – PA 279 of 1909, as amended
- Home Rule Village Act – PA 278 of 1909, as amended
- General Law Village Act – PA 3 of 1895, as amended
- General Law Townships – Part of the Revised Statutes of 1846
- Charter Township Act – PA 359 of 1947, as amended
- Fourth Class City Act – PA 215 of 1895, as amended

[www.michiganlegislature.org](http://www.michiganlegislature.org) (BOOKMARK IT!!!!)

# MAMC Clerking 101

## Governing Laws and Ordinances, cont.

- **ORDINANCES**

- Just as statutes are the laws of the state of Michigan, enacted by the legislature, ordinances are the laws of the local unit of government, enacted by its elected body.
- The laws are intended to provide for safety, health and welfare of the community, and cover subjects from animal control to zoning.
- Ordinances are the rules which prohibit or require specific behavior on the part of its residents and business owners.
- Ordinances can have civil or criminal penalties for violations, up to and including fines and jail time.
- Ordinances are adopted in accordance with the rules set out in the Charter (if the community has one) or state law.
- Some types of ordinances may require more than a simple majority for adoption, and many communities require more than one “reading” (appearance and vote at a meeting) before being adopted.
- There is usually also a requirement for publication in the newspaper of record before the ordinance is effective.

# MAMC Clerking 101

## Governing Laws and Ordinances, cont.

- **CODIFICATION OF ORDINANCES**

- “Codification” refers to the grouping together of ordinances adopted over a period of time into a book, organized by subject matter, called the Code of Ordinances.
- Chapters and sections are created, with a detailed table of contents and index to aid in finding specific information.
- Most communities doing a first codification hire a firm which has specialized attorneys and editors; these same companies can do updates or “supplements” to the Code of Ordinances, which incorporate any changes to the ordinances over a specific period of time, such as one year.
- Whether or not a community has codified ordinances, one signed original copy of each ordinance should be kept in a file or book, in chronological order, as a permanent record.

# MAMC Clerking 101

## Parliamentary Procedure

- The Rules of Democracy—that is the commonly accepted way in which a group of people come together, present and discuss courses of action, and make decisions.
- Robert’s Rules of Order Newly Revised
- Ten Principles of Parliamentary Procedure
  - The organization is paramount as opposed to the individual.
  - All members are equal.
  - A quorum must be present to take legal action.
  - Only one main proposition can be under consideration.
  - Only one member can have the floor at a time (right!!).
  - Full debate is allowed on all questions (unless rules do not allow debate).
  - The issue, not the person, is always what is under consideration.
  - A question once decided cannot come back before the assembly in the same session in the same form, except by use of reconsideration.
  - A majority vote decides (unless a greater majority is required).
  - Silence gives consent.

# MAMC Clerking 101

## Parliamentary Procedure, cont.

### **National Association of Parliamentarians**

### **Parliamentary Basics**

- **Types of Rules**

- An organization is typically governed by several different types of rules, which form a hierarchy, with higher-ranking classes of rules superseding those of a lower rank.
- Common classes of rules, listed from highest- to lowest-ranking, include:
  - Federal, state, and local laws
  - Articles of Incorporation
  - Bylaws
  - Special rules of order
  - Parliamentary authority
  - Standing rules
  - Custom



# MAMC Clerking 101

## Parliamentary Procedure, cont.

- **Motions**

- There are several classes of motions that may be encountered in meetings, listed below. The most commonly used motions belong to the Thirteen Ranking Motions.
- The **main motion** is the basis of all parliamentary procedure. All business to be considered by an assembly is introduced by a main motion. This type of motion may only be considered if no other business is pending.
- **Subsidiary motions** may be applied to another motion for the purpose of modifying it, delaying action on it, or disposing of it.
- **Privileged motions** are unrelated to the current motion, but are of such urgency or importance they are considered immediately. These motions are related to members, the organization, and meeting procedure rather than the item of business being considered.
- **Incidental motions** are related to, or incidental to, the business being considered, but do not directly modify the pending motion.
- Motions that bring a question again before the assembly, or **bring-back motions**, are a special type of main motion that permits the assembly to consider previously disposed of business.

# MAMC Clerking 101

## Parliamentary Procedure, cont.

- **Discussion**

- Discussion, or *debate* in parliamentary terms, is how an assembly decides whether a proposed course of action should be followed. Disagreement is healthy, and helps the organization make the best decision *if* discussion is approached fairly and consistently:
- Before speaking in debate, members obtain the floor as described in [Parliamentary Basics – Presiding](#).
- The person who makes a motion may speak on it first, if he or she expresses the desire to do so.
- All remarks are addressed to the chair, not to other members.
- Debate is confined to the merits of the motion currently under consideration.
- Debate can only be closed by order of the assembly (2/3 vote), or by the chair if no one seeks the floor for further debate.

# MAMC Clerking 101

## Parliamentary Procedure, cont.

- **Presiding**

- Two essential components of effectively presiding are preparing and following an agenda, and handling motions fairly and consistently.
- Sample Meeting Agenda  
(Excerpted from the NAP publication, *The Chair's Guide: Order of Business*)
  - Call to Order
  - Opening Ceremonies (optional)
  - Roll Call (if customary)
  - Reading and Approval of Minutes
  - Reports of Officers, Boards, and Standing Committees
  - Reports of Special Committees (announced only if such committees are prepared or instructed to report)
  - Special Orders (announced only if there are special orders)
  - Unfinished Business and General Orders
  - New Business
  - Announcements
  - Program (if a program or a speaker is planned for the meeting)
  - Adjourn

# MAMC Clerking 101

## Parliamentary Procedure, cont.

- **Presiding, cont.**

### **Procedure for Handling a Main Motion**

#### Obtaining and Assigning the Floor

1. A member rises when no one else has the floor and addresses the chair: “Mr./Madam President,” “Mr./Madam Chairman,” or by other proper title. (In a large assembly, the member gives his or her name and identification.)
  - The member remains standing and awaits recognition by the chair.
2. The chair recognizes the member by announcing his or her name or title, or, in a small assembly, by nodding.

### **How the Motion is Brought Before the Assembly**

1. The member makes the motion: “I move that (or ‘to’)...” and resumes his/her seat.
2. Another member, without rising, seconds the motion: “I second the motion,” or “I second it” or even just “second.”
3. The chair states the motion: “It is moved and seconded that .... Are you ready for the question?”

# MAMC Clerking 101

## Parliamentary Procedure, cont.

- **Presiding, cont.**

### **Consideration of the Motion**

1. Members debate the motion. (See [Parliamentary Basics – Discussion](#)).
2. The chair puts the motion to a vote.
  - The chair asks: “Are you ready for the question?” If no one rises to claim the floor, the chair proceeds to take the vote.
  - The chair says: “The question is on the adoption of the motion that ... As many as are in favor, say ‘Aye.. (Pause for response.) Those opposed, say ‘No.’. (Pause for response.)
3. The chair announces the result of the vote.
  - “The ayes have it, the motion is adopted, and .... (indicating the effect of the vote),” or “The noes have it, and the motion is lost.”

# MAMC Clerking 101

## Parliamentary Procedure, cont.

- **General Rules of Debate**

- The maker of a motion is entitled to speak first.
- A member must obtain the floor by being recognized by the Chair.
- No member is entitled to speak a second time on the same motion while any other member wishes to make their first speech.
- A member may not speak against his/her own motion, but may vote against it.
- Remarks must be confined to the merits of the pending question.
- Questions and remarks must be addressed through the Chair. Members are not to speak directly to each other or to a staff member.
- A courteous tone must be maintained, and interjecting personal notes or attacking another member's motives is prohibited.
- Use of a member's name is to be avoided, if at all possible, you should refer to "the maker of the motion" or "the previous speaker" whenever possible.
- Reading from books, reports, etc. is only allowed with permission of the assembly by vote or general consent, that is, if there are no objections.
- The Presiding Officer may not participate in debate without relinquishing the Chair.
- No member may comment adversely on any prior act of the assembly that is not pending.

# MAMC Clerking 101

## Parliamentary Procedure, cont.

### **Tips for Conducting Public Hearings and Receiving Public Input**

- Create and follow your own Rules of Procedure
  - Rules should be simple, clear, easy to interpret and to enforce, but flexible enough to handle difficult situations.
  - Once promulgated, rules should be strictly followed.
  - Begin each meeting with an oral summary of the rules.
- Treat every person fairly and impartially
  - Treat everyone politely and with respect.
  - Give each speaker your attention.
  - Reciprocate courtesies – if you grant one person extra time, automatically extend that courtesy to others – or don't do it!
  - Never express personal feelings about any individual.
- Always maintain control and decorum
  - Usually this is the responsibility of the Chair, but all members should assist.
  - Be fair but firm.
  - Never let speakers cross-talk or speak out of turn.
  - Use the gavel judiciously.
  - Don't allow clapping or demonstrations to take over a meeting.
  - Adopted Rules may prohibit a response or back-and-forth with the speaker.

# MAMC Clerking 101

## Parliamentary Procedure, cont.

### **Tips for Conducting Public Hearings and Receiving Public Input**

- Do not delay or compromise decision-making unnecessarily
  - Avoid the human urge to delay every controversial decision in the hope that it will be resolved later.
  - Accept the fact that you will not be able to make everyone happy.
- Remember that citizens don't have all the information that you do
  - Make sure you are following proper notice procedures.
  - Try to remain objective by keeping your focus on the unknown public when dealing with questions of notice.
  - Try to avoid surprising the public with new information at the decision-making hearing.
  - Allow the public an opportunity to review available information ahead of time.
  - Never express your conclusions prior to hearing all of the evidence.



# MAMC Clerking 101

## Parliamentary Procedure, cont.

### **Tips for Conducting Public Hearings and Receiving Public Input**

- Provide for an accurate record
  - If you want your decisions to be upheld, keep a good record to support those decisions.
  - Remember that what you say is being recorded – flip comments, in addition to being inappropriate, will often come back to haunt you.
  - Never go “off the record” to have private discussions.
  - Try to make sure every decision has an explained rationale, either written or expressed at the public hearing.
  - Be consistent in your decision making.
- Listen to your legal counsel
  - If you ask a legal question, follow the advice given.
  - If you are not prepared to follow advice, don’t ask the question.

# MAMC Clerking 101

## Parliamentary Procedure, cont.

### Additional tips

- A motion introduces business to the group, and debate (discussion) shouldn't begin until after it has been moved, seconded, and restated by the chair.
  - *WHY: So that every member understands what is being discussed and voted on.*
- When you believe debate should end and a vote taken, you can "move the previous question" or "call for the question." However, this does not cause an immediate vote on the main motion. The motion to end debate should be seconded and voted upon, and it requires a 2/3 vote. If it passes, then the vote is taken on the main (business) motion. Simply saying "I call the question" is not enough to end debate.
- If you table an item, you must take it up again at the same meeting.
  - *WHY: "Tabling" a motion comes from "lay it on the table" while you do something more important, such as hear from a consultant, or welcome an honored guest. This actually dates from the time when a king or queen would enter the house of an assembly to address it, and the body would "lay on the table" whatever they were doing at the time, then take it up again when the big event was over, during the same meeting. If it is not taken up from the table, it "falls from the table," and presumably gets cleaned up by the custodian. It must be brought up as a new motion if not handled in the same meeting.*
  - *\*Table and Postpone motions are often confused and used interchangeably.*

# MAMC Clerking 101

## Open Meetings Act

- Open Meetings Act, Act 267 of 1976

An act to require certain meetings of certain public bodies to be open to the public; to require notice and the keeping of minutes of meetings; to provide for enforcement; to provide for invalidation of governmental decisions under certain circumstances; to provide penalties; and to repeal certain acts and parts of acts.

- Meetings
- Public Notices
- Closed Session, NOT Executive Session (I know, I know)
- Minutes of Closed Sessions

# MAMC Clerking 101

## Open Meetings Act, cont.

### What Meetings are Covered?

- The Michigan Open Meetings Act covers the meetings of **public bodies**.
- The law defines a "public body" as:  
*any state or local legislative or governing body, including a board, commission, committee, subcommittee, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function; a lessee of such a body performing an essential public purpose and function pursuant to the lease agreement; or the board of a nonprofit corporation formed by a city under [Michigan law].*

# MAMC Clerking 101

## Open Meetings Act, cont.

### What is a Meeting?

- Must figure out which gatherings or activities constitute an "meeting" for purposes of the law.
- Under the Michigan Open Meetings Act, a "meeting" is any gathering of a quorum of members of a governmental body to discuss or take action regarding official business or policy.
- A quorum is a just a simple majority of the members of the public body.
- The term "meeting" also applies to information-gathering and fact-finding sessions where a quorum is present and the session relates to the body's public business. The Open Meetings Act excludes a gathering that is "a social or chance gathering or conference not designed to avoid this act." [MCL § 15.263\(10\)](#).

# MAMC Clerking 101

## Open Meetings Act, cont.

### What are the Rights of the Public?

- The Michigan Open Meetings Act gives "the public" the right to attend the meetings, with exceptions for closed sessions. Michigan law does not limit access to meetings to a specific category of people or a profession, such as "the traditional press." **Anyone** may attend.
- A public body may not put conditions on attendance, such as requiring you to give your name or other information. [MCL § 15.263\(2\)-\(4\)](#).
- The Open Meetings Act gives the right to speak or comment during a meeting of a public body, subject to rules established by the public body for the maintenance of order. The state legislature may set rules that limit the right of comment to prescribed times at hearings and committee meetings only. See [MCL § 15.263\(5\),\(6\)](#).

# MAMC Clerking 101

## Open Meetings Act, cont.

### Notice of Meetings

- Michigan law requires public bodies to give notice of their meetings.
- The Open Meetings Act requires to post notice of their regularly scheduled meetings **within ten days of the first meeting in each calendar or fiscal year.**
- The notice must contain the dates, times, and places of the public body's regular meetings, as well as the name of the public body, its telephone number and its address.
- The public body must post this notice at its principal office and any other location deemed appropriate. Publishing notice through cable television is permitted.
- If the public body amends its schedule, it must post notice of the change within three days. See [MCL § 15.264](#); [MCL § 15.265\(1\)-\(3\)](#)

# MAMC Clerking 101

## Open Meetings Act, cont.

### Special Meetings and Notices

- Public bodies may also hold "special" meetings, which are not on the regular schedule.
- These must post notice **at least 18 hours before the meeting.** This requirement does not apply to the special meetings of subcommittees of a public body or conference committees [MCL § 15.265\(4\)](#).
- Upon the written request and yearly payment, party's can be send by first class mail a copy of any notice required to be posted. Newspapers get a copy for free. See [MCL § 15.266](#).
- Jurisdiction posting must be visible 18 continuous hours.



# MAMC Clerking 101

## Open Meetings Act, cont.

### **Minutes and Recordings**

- Each public body shall keep minutes of each meeting showing the date, time, place, members present, members absent, any decisions made at a meeting open to the public, and the purpose or purposes for which a closed session is held.
- The minutes shall include all roll call votes taken at the meeting.
- The public body shall make any corrections in the minutes at the next meeting after the meeting to which the minutes refer. The public body shall make corrected minutes available at or before the next subsequent meeting after correction. The corrected minutes shall show both the original entry and the correction. See [MCL § 15.269](#).
- A public body shall make *proposed minutes* available for public inspection within 8 business days after the meeting to which the minutes refer.
- The public body shall make *approved minutes* available for public inspection within 5 business days after the meeting at which the minutes are approved by the public body.
- Public bodies must keep separate meetings for closed sessions, and these minutes are not open to the public, unless a court orders them to be made publicly available. See [MCL § 15.267](#).

# MAMC Clerking 101

## Open Meetings Act, cont.

### Closed Session

- To hold a closed session, it must identify a specific statutory exemption. Under the Michigan Open Meetings Act, a public body may hold a closed session when it is dealing with area exemptions found in [MCL § 15.268](#).
  - a. To consider the dismissal, suspension, or disciplining of, or to hear complaints or charges brought against, or to consider a periodic personnel evaluation of, a public officer, employee, staff member, or individual agent, if the named person requests a closed hearing. A person requesting a closed hearing may rescind the request at any time, in which case the matter at issue shall be considered after the rescission only in open sessions.
  - b. To consider the dismissal, suspension, or disciplining of a student if the public body is part of the school district, intermediate school district, or institution of higher education that the student is attending, and if the student or the student's parent or guardian requests a closed hearing.
  - c. For strategy and negotiation sessions connected with the negotiation of a collective bargaining agreement if either negotiating party requests a closed hearing.
  - d. To consider the purchase or lease of real property up to the time an option to purchase or lease that real property is obtained.
  - e. To consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, but only if an open meeting would have a detrimental financial effect on the litigating or settlement position of the public body.
  - f. To review and consider the contents of an application for employment or appointment to a public office if the candidate requests that the application remain confidential. However, except as otherwise provided in this subdivision, all interviews by a public body for employment or appointment to a public office shall be held in an open meeting pursuant to this act. This subdivision does not apply to a public office described in subdivision (j).
  - g. Partisan caucuses of members of the state legislature.
  - h. To consider material exempt from discussion or disclosure by state or federal statute.
- The exemptions make it permissible for a public body to close a meeting, they do not require the public body to do so. To close a session, a public body must identify the exemption justifying closure and vote to close the session by a two-thirds majority on the record during an open meeting. See [MCL § 15.267](#).

# MAMC Clerking 101

## Open Meetings Act, cont.

### **Closed Session Minutes**

- A separate set of minutes shall be taken by the clerk or the designated secretary of the public body at the closed session.
- These minutes shall be retained by the clerk of the public body, are not available to the public, and shall only be disclosed if required by a civil action filed under section 10, 11, or 13.
- These minutes may be destroyed 1 year and 1 day after approval of the minutes of the regular meeting at which the closed session was approved.

# MAMC Clerking 101

## Open Meetings Act, cont.

### **Enforcement of the Act**

- Decisions of a public body shall be presumed to have been adopted in compliance with the requirements of this act. The attorney general, the prosecuting attorney of the county in which the public body serves, or any person may commence a civil action in the circuit court to challenge the validity of a decision of a public body made in violation of this act.

### **Penalties under the act**

- A public official who intentionally violates this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00.
- A public official who is convicted of intentionally violating a provision of this act for a second time within the same term shall be guilty of a misdemeanor and shall be fined not more than \$2,000.00, or imprisoned for not more than 1 year, or both.
- A public official who intentionally violates this act shall be personally liable in a civil action for actual and exemplary damages of not more than \$500.00 total, plus court costs and actual attorney fees to a person or group of persons bringing the action.

# MAMC Clerking 101

## Freedom of Information Act (FOIA)

- Are we having fun with this one yet???
- PA 442 of 1976, as amended (MCL 15.231).

AN ACT to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts.

- This act shall be known and may be cited as the “freedom of information act.”
- Recent amendments took effect July 1, 2015 and December 28, 2018 – (“Emily” changes).

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

- **Definitions**

- “FOIA coordinator” means either of the following:
  - (i) An individual who is a public body.
  - (ii) An individual designated by a public body in accordance with section 6 to accept and process requests for public records under this act.
- “Person” means an individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity. Person does not include an individual serving a sentence of imprisonment.
- “Public body” means any of the following:
  - (i) A state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of the state government, but does not include the governor or lieutenant governor, the executive office of the governor or lieutenant governor, or employees thereof.
  - (ii) An agency, board, commission, or council in the legislative branch of the state government.
  - (iii) A county, city, township, village, intercounty, intercity, or regional governing body, council, school district, special district, or municipal corporation, or a board, department, commission, council, or agency thereof.
  - (iv) Any other body which is created by state or local authority or which is primarily funded by or through state or local authority.
  - (v) The judiciary, including the office of the county clerk and employees thereof when acting in the capacity of clerk to the circuit court, is not included in the definition of public body.

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

- **Definitions, cont.**

- “Public record” means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software.
  - Exempt or not exempt from disclosure.
- “Writing” means handwriting, typewriting, printing, photostating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content.
- “Written request” means a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

- **Public records; right to inspect, copy, or receive; subscriptions.**
  - Right to inspect, copy or receive copies.
    - No need to FOIA readily available documents!
  - Subscriptions.
    - A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable.
  - Keep all requests on file for 1 year.
  - Public inspection of records.
  - Municipality is not required to create a new record or report.
  - Certified copies of public records.



# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

- Fees
  - Fees may be charged if the municipality has Procedures and Guidelines (and a Written Public Summary – 2015 changes!)
    - Must be posted on website
  - Fees are limited to what is allowed here:
    - Labor for searching/examining records.
      - Must be charged in 15-minute increments or more.
    - Labor for review and separation of exempt information.
      - Cost of contracted labor.
      - Must be charged in 15-minute increments or more.
      - No charge for previously redacted records.
    - Cost of nonpaper physical media (digital or electronic media).
    - Cost of paper copies.
      - Labor for copying, duplication
      - May be charged in time increment of municipality's choosing.
      - Recommendation: Use 15-minute increments or more to be consistent
    - Cost of mailing
    - Fringe benefits – limit to 50%
    - Indigent benefits – First \$20 free
    - Public benefit waiver

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

- Recent Changes - 2018
  - Requests must include “the requesting person’s complete name, address, and contact information, and, if the request is made by a person other than an individual, the complete name, address and contact information of the person’s agent who is an individual. An address must be written in compliance with USPS addressing standards. Contact information must include a valid telephone number or electronic mail address.
  - Timelines for deposits to be paid
    - 45-day receipt is considered received 3 days after it is sent (48 total days).
    - Must include deadline for payment.

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

### **Processing Requests**

- Written request must go to FOIA Coordinator
- When electronic requests are “received”
- Must check spam/junk-mail folders – received 1 day after public body is aware of it.
- Must respond within 5 business days:
  - Granting
  - Denying
  - Granting/Denying
  - Issuing an Extension
  - Requesting a Deposit payment
- When failure to respond becomes a denial
- Penalties for improper non-disclosure of records
- Notice of Denial
- Right to Appeal a Denial

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

### FOIA Coordinator

- Must have a FOIA Coordinator
  - A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's FOIA coordinator.
  - The FOIA coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial under section 5(4) and (5).

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

### **Right to Appeal a Denial**

- Requestor has options to appeal a denial:
  - To designated head of body (City Manager)
    - Appeal Response:
      - Reverse
      - Uphold
      - Reverse/Uphold
    - Under “unusual circumstances,” issue one extension of appeal
    - When an appeal is “received”
  - To Circuit Court
    - Requestor’s right to seek judicial review
    - Court will order release of improperly withheld record
    - Municipality has burden to sustain its denial
    - Court scheduling
    - Court award of fees, costs to prevailing person
    - Penalties for arbitrary and capricious violation

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

### **Excessive Fees**

- Appeal of an Excess Fee:
  - To Head of Public Body
    - FOIA Coordinator not required to complete request until fee appeal decided
    - Appeal Response:
      - Waive Fee
      - Reduce fee and issue certified determination
      - Uphold fee and issue certified determination
      - Issue one extension of appeal detailing reasons for extension
  - When an appeal is “received” if Board/Commission acting as Head of Body:
    - Until the first regularly scheduled meeting.
  - To Circuit Court
    - Court will reduce impermissible fee
    - Municipality has burden to show fee complies with Procedures and Guidelines and FOIA
    - Court scheduling
    - Court award of fees, costs to prevailing person
    - Penalties for arbitrary and capricious violation

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

### **Failure to Comply with FOIA**

- Fine for willful and intentional noncompliance
  - If the court determines, in an action commenced under this act, that a public body willfully and intentionally failed to comply with this act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence

### **FOIA Exemptions**

- Privacy exemption
  - The information would constitute a clearly unwarranted invasion of an individual's privacy.
- Law enforcement investigating records
- Security records of custodial or penal institutions
- Records exempted by statute
- Exempt records provided to public office/body
- Trade secrets / commercial / financial information
- Attorney-client privilege
- Preliminary communications (“frank communications”)
- Many others, see MCL 15.243

# MAMC Clerking 101

## Freedom of Information Act (FOIA), cont.

**Every Municipality needs to adopt a version of three things:**

- The FOIA Procedures and Guidelines (include a public inspection of records policy)
- A Written Public Summary (of the Procedures and Guidelines)
- A Detailed FOIA Cost Itemized Worksheet
  
- All municipalities with a web presence, must post on their website!



# MAMC Clerking 101

## Elections

# DAY 2

# MAMC Clerking 101

## Elections

- Chapter 168, Act 116 of 1954

AN ACT to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; (and more stuff...)

- We currently have three Regular Election Dates:
  - May, August, and November,
    - First Tuesday after the first Monday
- A school district may call a special election to submit a ballot question to borrow money, increase a millage, or establish a bond if an initiative petition is filed with the county clerk.
- Secretary of State, Chief Elections Officer
- Bureau of Elections

# MAMC Clerking 101

## Elections

- The Role of the Local City/Township Clerk
  - Chief Elections Official for the jurisdiction
  - Maintain voter registration files
  - Issue absentee ballots
  - Recruit and train election inspectors (pop. >10,000)
  - Set-up election day polling places and AVCB
  - Chair of the local Election Commission
    - Other members as directed by local charter or State law
- The Role of the County Clerk
  - Program and print ballots
  - Train election inspectors (pop. <10,000)
  - Manage County Board of Canvassers
  - Provide seals and other required supplies

# MAMC Clerking 101

## Elections

- Establishment of Precincts and Polling Places
  - Current maximum voters is 2,999 per precinct (minus inactive voter file!)
  - Temporary consolidated precincts limited to 5,000 voters (minus IVF)
- Role of Governing Body
  - Establish polling place locations – MCL 168.662 (1)
- Role of Election Commission
  - Approve consolidated precincts in local elections
  - Approve precinct boundary changes and splits – MCL 168.661
- Role of Municipal Clerk
  - Maintain street index and polling place maps
  - Recommend changes to Election Commission and governing body
  - Notify voters of changes – new voter ID cards, signage, social media

# MAMC Clerking 101

## Elections

- Election Commissions
  - A City Election Commission is composed of the city clerk, the city attorney and the city assessor unless otherwise provided by charter. In a general law township, the Township Election Commission is composed of the township clerk, the township supervisor and the township treasurer. In a charter township, the Township Election Commission is composed of the township clerk and two township trustees.
  - Must meet at least once before each election in an Open Meeting! (May meet more frequently depending on required actions.)
    - Approve Precinct Consolidations (MCL 168.659) – 60 days
    - Appoint Election Inspectors (MCL 168.674) – 21-40 days
    - Conduct the Public Accuracy Test – (R168.778) – at least 5 days before Election Day (requires 48-hours notice 168.798)
    - May make policy recommendations/direction to Clerk on conduct of the Election

# MAMC Clerking 101

## Elections

- Proposition 3 – “Promote the Vote”
  - Approved by Michigan Voters in November 2018
    - Protects the right to a Secret Ballot
    - Right for military to have absentee ballot 45 days in advance (already complying with this via the MOVE Act.)
    - Provides the voter the option to cast a Straight Party ballot
    - Allows for Automatic Voter Registration
    - Allows citizens to register to vote by mail until 15 days before an election
    - Allows citizens to register in person with the LOCAL clerk’s office until 8pm on Election Day
    - NO REASON ABSENTEE VOTER BALLOT!!!
    - Right for voters to have the results of statewide elections audited. (Michigan had procedural audits, beginning to conduct audits of votes cast.)

\*THIS SUBSECTION SHALL BE LIBERALLY CONSTRUED IN FAVOR OF VOTER’S RIGHTS IN ORDER TO EFFECTUATE ITS PURPOSES.

# MAMC Clerking 101

## Elections

- **Bureau of Elections Training Opportunities:**
  - Required – Election Officials Accreditation
  - QVF hands-on Training
  - Even-year election cycle updates
  - Train the Trainer
  - Proposal 3 Updates
- **MAMC and Clerk Association Opportunities:**
  - Free Education Day
  - Annual Conference
  - County Association Training/Meetings with County Clerk and local colleagues
  - MAMC forums – JUST ASK!!!!

# MAMC Clerking 101

## Record Retention and Management

**Public records are the property of the people of the State of Michigan.**

- Michigan government agencies are responsible for ensuring that the public records they create and receive while conducting public business are retained and destroyed in accordance with Michigan law.
- The Michigan Freedom of Information Act (FOIA) (Public Act 442 of 1976, as amended), defines public records as recorded information “prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created.”
- Two laws provide that local government records belong to the people of Michigan.
  - Section 491 of the Michigan Penal Code (MCL 750.491).
  - Section 5 of the Michigan Historical Commission Act (MCL 399.5).



# MAMC Clerking 101

## Record Retention and Management, cont.

- What is Records Management?
  - Ensures that authentic and accurate information can be retrieved quickly, easily and cost effectively
  - Managing the life cycle of a record
    - Creation
    - Storage
    - Retrieval
    - Retention
    - Protection
    - Disposition (this one never seems to get done timely)

# MAMC Clerking 101

## Record Retention and Management, cont.

- Records Management Principles
  - If the information is recorded it is a **record**
  - Public records are evidence of government activities
  - Destruction must be authorized by an approved **Retention and Disposal Schedule**
  - Records supporting the same business process need to be stored together on media that will keep them accessible and usable for the entire retention period
  - **Every employee** who creates, receives or maintains official **records** is responsible for records retention

# MAMC Clerking 101

## Record Retention and Management, cont.

- Records in Many Formats
  - The medium used to document an official government activity is irrelevant.
  - The content determines if it is evidence of an official government transaction, action, or activity.
  - Records can be stored as paper, photographs, maps, drawings, microfilm, databases, digital images, spreadsheets, e-mail, tweets, etc.
- Retention and Disposal Schedules
  - Only provide the Legal Authority to destroy records.
  - Inventory of records created and maintained by an agency.
  - Identify how long records will be kept.
  - Identify records with permanent value.
  - Identify when certain records can be destroyed.
  - Legal documents.

# MAMC Clerking 101

## Record Retention and Management, cont.

- **Determining Retention Periods**
  - Keep records as long as they have:
    - Operational/Administrative Value
    - Fiscal Value
    - Legal Value
    - Historical/Archival Value
  - Destroy records when their value ceases to exist.
  - Approved retention schedules have the force of law.
  - Retention periods are minimums.
  - Local governments are encouraged to keep select records with historical value longer than the minimum.
  - Do not specify the format of the record (paper, microfilm, electronic, etc.)
  - Michigan Township Record Retention General Schedule is available from the Michigan Townships Association.

# MAMC Clerking 101

## Record Retention and Management, cont.

### **Why Follow a Retention Schedule?**

- Risks of keeping records too long.
- Wastes space.
- Harder to find records you need.
- Records must be reviewed for FOIA and litigation.
- Risks of destroying records too soon.
- Violation of Michigan law
- Exposes agency to liability if the records are requested and not available.
- Avoid random record purging by establishing a routine within the normal course of business.

# MAMC Clerking 101

## Record Retention and Management, cont.

- Record Maintenance
  - As a general rule:
  - 30% of records need to be retained but are not retrieved regularly, and should be moved to low-cost storage.
  - 40% of records met their retention requirements and should be destroyed.
  - 30% of records are needed on-site for active reference and retrieval
  - When was the last time your office reviewed its records?
  - Move 30% off-site

# MAMC Clerking 101

## Record Retention and Management, cont.

- Storage
  - Storing paper is cheaper than converting to microfilm and digital imaging.
  - Security for fire and theft are required.
  - If storage space is not available then a vendor should be selected.
  - Select a fire resistant structure with a detection and suppression system.
  - Install temperature and humidity controls.
  - Maintain ventilation and protection from insects and mold.
  - Keep aisle space clear, maintain good lighting of aisles.
  - Install shelving above initial flood stage.
  - Label record containers to identify contents and “owner.”
  - Maintain an inventory of the records stored.
  - Identify authorized destruction dates.

# MAMC Clerking 101

## Record Retention and Management, cont.

- Disposal
  - GET RID OF THE 40%.
  - If the retention period specified on the schedule has been met, the records may be destroyed or transferred to the Archives of Michigan.
  - FOIA, Litigation, Audit, Investigation Immediately cease the destruction of all relevant records.
- Negative Impacts
  - Financial loss
  - Lost opportunity
  - Litigation/audit/investigation
  - System repair/recovery costs
  - Customer inconvenience
  - Lost time/productivity
  - Public embarrassment or scrutiny



# MAMC Clerking 101

## Record Retention and Management, cont.

- **Benefits of Being Organized**

- Effective management does not happen by accident.
- Result of careful planning and implementation.
- Goal is efficient retrieval of information to save time and money--ability to find files days, weeks, months or years after they are created.
- Easier to share files with coworkers, especially if everyone in the office follows the same rules.
- Saves storage space.
- Recordkeeping is an on-going process.

# MAMC Clerking 101

## Record Retention and Management, cont.

- **Risk Management**

- Understand the risk of loss.
- Disaster (fire, flood, etc.)
- Intentional or illegal destruction or alteration.
- Security breach (theft, misuse or fraud).
- System backup process failed.
- Human error.
- Technology obsolescence.
- Deterioration.
- Pests (rodents, insects, etc.)







# MAMC Clerking 101

## Record Retention and Management, cont.

- **Disasters in Michigan**

- Tornado
- Fire
- Flooding
- Burst water pipe
- Roof cave in
- Power outage
- Human error
- Infestation
- Terrorist attack
- Computer virus
- Most disaster recovery literature encourages action within 48 hours.









# MAMC Clerking 101

## Record Retention and Management, cont.

- **Media Longevity**

- Acid-free paper 500 years.
- Acidic paper 100 years.
- Microfilm (silver/polyester base) 500 years.
- Hardware and software 10 years.
- Most computer technology will become obsolete before its life expectancy is met, and before the records dependent upon it have fulfilled their retention.

# MAMC Clerking 101

## Record Retention and Management, cont.

- **Paper Filing Systems**

- Advantages

- No conversion costs.
- Established filing rules.
- Satisfies long-term storage requirements.
- May be eligible for low-cost off-site storage.

- Disadvantages

- No disaster recovery.
- Single user/single location access.
- Expensive to duplicate.
- Easy to misfile or lose.

# MAMC Clerking 101

## Record Retention and Management, cont.

- **Micrographics**

- Reduce space requirements (~ 98%).
- Ease of duplication and distribution.
- Preserve information (long-term stability).
- Minimal system dependence.
- Security/protection (working and security copies).
- Integrity of records.
- Improve filing and retrieval activity.
- Eliminate misfiles (\$125 per incident).

- **Document Imaging**

- Reduce space requirements (~ 50,000 pages fit on a disk).
- Indexing and cross-reference.
- High speed retrieval.
- Sharing documents across a network or the internet.
- Easily integrated with document management systems, databases and other tools.

# MAMC Clerking 101

## Record Retention and Management, cont.

### **E-Mail**

- E-mail was invented in October 1971
- E-mail use increased steadily years
- Today, most employees cannot function effectively at work without e-mail
- There is no single retention period for all e-mail
- E-mail is a format that a record is stored in.
- Retention is based upon the content of the message, and the business process it supports.
- If an e-mail message is related to a contract, it needs to be kept as long as all other contract records. If the message is related to a personnel issue, it needs to be kept as long as all other personnel records.

# MAMC Clerking 101

## Record Retention and Management, cont.

### **E-Mail Liabilities**

- Public officials and government employees have been caught using electronic messaging systems inappropriately with knowledge, or destroying electronic records illegally.
- Some have lost their jobs.
- Some have had to pay hefty fines.
- Some have gone to jail.
- **Do not write something in an e-mail message that you do not want to see published in the newspaper or on television news reports.**
- A quorum of members of public cannot use e-mail to deliberate issues.
- The e-mail account of members of public bodies (elected or appointed) are eligible for release in accordance with FOIA and can be used as evidence in litigation.
- Notify all responsible parties to stop destroying relevant messages once a request is received or anticipated.

# MAMC Clerking 101

## Record Retention and Management, cont.

### **E-Mail Responsibilities**

- Decide which messages to keep, which to destroy.
- **Empty e-mail trash bins to purge deleted messages frequently.**
- File the messages that are retained in an organized filing system.
- Identify which retention schedule mandates the message's retention or authorizes its destruction.
- Adopt and distribute an e-mail retention policy for staff and distribute an acceptable use policy.
- Communicate with employees, attorneys, and staff when a FOIA request is received or when litigation appears to be imminent.
- RMS published a model e-mail retention policy on the website:  
<http://www.michigan.gov/recordsmanagement/>  
<http://www.quickknowledge.com/qk/hal/email>
  - Defines status of e-mail as records.
  - Responsibilities.
  - Storage options.
  - SOM Procedure 1460.00: Acceptable Use of State of Michigan Information Technology Resources.

# MAMC Clerking 101

## Record Retention and Management, cont.

### **Four Categories of Records**

- **Official Records:**

- Recorded information that is prepared, owned, used, in the possession of, or retained by an agency in the performance of an official function.
- Retain according to Agency Specific and General Schedules.

- **Transitory Records:**

- Records relating to agency activities that have temporary value and **do not need to be retained** once their intended purpose has been fulfilled.
- Retain for up to 30 days.

- **Non-records:**

- Recorded information that is not needed to document the performance of an official function.
- Destroy ASAP.

- **Personal Records:**

- Records that document nongovernment business or activities.
- Note: agencies may have policies that prohibit the use of personal e-mail with government technology resources.



# MAMC Clerking 101

## Record Retention and Management, cont.

### First Steps

1. Distribute schedules to staff.
  - Have staff identify any records that are not listed on an approved schedule.
    - Get a specific schedule approved to authorize their destruction.
  - Training:
    - Ensure all staff has some basic awareness of retention requirements relevant to their job.
  - Separate official records from non-records.
  - Separate public records from personal records.
  - Keep records that document a business process together.
  - Establish a routine for destroying records that have met their retention period.
  - Manage e-mail daily.
    - Don't let the volume of e-mail get out of control, don't employ automatic purging routines.
  - Adopt an Acceptable Use Policy for IT resources.
    - Require users to sign a compliance statement or implement a pop-up screen to acknowledge the policy upon access.
  - Understand when it is necessary to suspend the destruction of records.

# MAMC Clerking 101

## Governmental Accounting

- An Accounting system is designed to assemble, analyze, classify, record, and report financial data.
- An accounting system is only as reliable as the underlying data it processes. A local unit of government's internal control framework must provide assurance that the accounting system and its underlying data are reliable.
- An accounting system must also facilitate maintenance of internal control.
- Basic Accounting Records
  - Every unit of government in Michigan must establish and maintain these accounting records:
    - The Uniform Chart of Accounts
    - Controlled Numbered Official Receipts
    - Controlled Numbered Official Checks
    - Detailed Receipt Journal
    - Detailed Disbursement Journal
    - General Ledger

# MAMC Clerking 101

## Governmental Accounting, cont.

- The Uniform Chart of Accounts
  - Follows Generally Accepted Accounting Principles in the U.S. and Michigan law.
  - Classification provides a systematic arrangement of accounts to be used in recording financial transactions of local units of government in Michigan.
  - strict adherence to accounts will assure responsible officials and general public that similar transactions are recorded in the same manner within all local units.

# MAMC Clerking 101

## Governmental Accounting, cont.

- Governmental accounting systems are organized and operated on a fund basis.
- A “fund” is defined as a fiscal and accounting entity with a balancing set of accounts.
- Separated into types:
  - Governmental Fund Types:
    - The General Fund: accounts for all financial resources not required to be in another fund type
    - Special Revenue Funds: used for resources having specific revenue sources and legally restricted to the type of expenditure. Examples: Major and Local Roads, Fire, Police
    - Capital Project Funds: financial resources to be used for the acquisition or construction of major capital projects. Examples new city hall, park, sidewalks, trails.
    - Debt Service Funds: accounts for the accumulation of resources and the payment of general long-term debt principal and interest.

# MAMC Clerking 101

## Governmental Accounting, cont.

- Proprietary Fund Types:
  - Enterprise Funds: accounts for the operations where the costs of providing the service are covered by a service fee. Example: water, sewer and waste collection
  - Internal Service Funds: account for the financing of goods and services by one department to another on a cost reimbursement basis. Example: IT or Fleet Equipment Funds
- Fiduciary Fund Types:
  - Trust and Agency Funds: accounts for funds held in a trustee capacity or as an agent for other units. Examples: Pension Trusts, Building Bonds
- Fixed Assets: should be valued at cost, and are only depreciated in the Proprietary fund types and not in the General Fixed Assets Group
- Long-Term Liabilities: need to be in the fund where they belong
- Fund Balance: GFOA recommendation is that at a minimum no less than 2 months of regular fund operating revenues..15%-20%

# MAMC Clerking 101

## Governmental Accounting, cont.

- Internal Controls:
  - Policies and Procedures to maintain financial records and engage in transactions on a daily basis
  - Measures taken by the local government for the purpose of
    - Protecting resources against waste, misappropriation, and inefficiency
    - Ensuring accuracy, timeliness, and reliability in accounting and operating data;
    - Maintaining compliance with applicable laws and regulations (local, State, and Federal);
    - Evaluating the level of performance of departments and personnel.

# MAMC Clerking 101

## Governmental Accounting, cont.

- Examples of internal control:
  - Job descriptions, purchasing procedures, reconciliation of bank Accounts
  - Safeguarding cash and other assets of the local government.
  - Ensure funds are expended properly.
  - Under law, elected and appointed officials have both the authority and the responsibility to manage the resources for the greater public good.
  - State law requires an audit annually for local units over 4,000 in population; biennially for local units under 4,000 in population.
  - Personnel needs to be competent and trustworthy with clearly established lines of authority that correlate to statutory or charter requirements.
- Human error is always present and can be limited, but never eliminated!

# MAMC Clerking 101

## Governmental Accounting, cont.

- Financial Policies
  - Adopt all policies required by statute.
    - Investment policy, required by MCL 129.91
    - Credit card, ACH, etc.
  - Adopt other policies that will allow the governing body to exercise appropriate controls.
  - Adopt a Purchasing Policy.
    - The policy should expressly state which employees have the authority to purchase goods or services.
  - Separation of Duties.
    - The policy should separate the duties of ordering, processing for payments and receiving.



# MAMC Clerking 101

## Governmental Accounting, cont.

- The treasurer must maintain control of all bank accounts.
- Deposits must be made timely and reconciled to official receipts.
- All bank accounts must be in the name of the local governmental unit.
- Tax collections must be deposited in a separate bank account.
- Bank signature cards should be kept current and the authorized signers limited.
- Financial institutions used as depositories must be approved by the governing body.
- Bank Reconciliations: All cash accounts should be reconciled to their respective bank statements monthly.

# MAMC Clerking 101

## Governmental Accounting, cont.

- Cash Receipting Procedures
  - Deposits should be made daily.
  - Un-deposited funds should be secured in a locked place such as a safe.
  - The change drawer should never be used to cash personal checks can too easily lead to theft and may be a violation of the State Constitution, Article IX, Section 18“the credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.”
  - Cash, check, or credit card as the method of payment must be indicated on the receipt.
  - The receipt must identify the individual receiving payment.
  - Checks must be restrictively endorsed (stamped for deposit only) at the point and time of collection.

# MAMC Clerking 101

## Governmental Accounting, cont.

- Property Tax Accounting Procedures
  - Property taxes must be collected by the treasurer or their designee, like any other receipt of the local unit.
  - All deposits of funds must be made to the local unit bank account under the control of the treasurer.
- Posting of Receipts
  - The cash receipts journal is maintained by the clerk in a township or village and the treasurer in a county
    - A city receipts journal is maintained according to the charter.
  - Each receipt is posted to the receipts journal in numerical order to the proper bank account, fund, and revenue account.
  - In a manual system, monthly totals by fund are posted from this journal to the general ledger revenue control account.
  - The general ledger is the responsibility of the clerk.

# MAMC Clerking 101

## Budget

- **Budget Concept**
  - In the State of Michigan, all General and Special Revenue Funds are required to be budgeted annually by law.
  - P.A. 621 of 1978 requires a budget appropriation be in place before a governmental unit may commit to spending money
  - A budget is a plan, an estimate of proposed expenditures for a given period of time and the proposed means of financing the expenditures.
- **Budget Mission**
  - The budget process is to help decision makers (Board or Council) to make informed choices about the provision of services and capital assets and to promote participation in the process.
- **Budget Dimensions**
  - To provide better financial and program decisions that lead to improved operations:
    - Involve elected officials
    - Administrators and Department Heads
    - Employees
  - To maintain good public relations and impression of government involve:
    - Citizens
    - Business leaders

# MAMC Clerking 101

## Budget, cont.

- **Good Budgeting**
  - Long term perspective
  - Links to broad organizational goals
  - Decisions should focus on results and outcomes
  - Promotes effective communication with all involved
  - Manage the budget through changes as they evolve
  - Changes may occur during an election year from campaign issues
- **Budget Issues**
  - Desires to change line items or prevent change
  - Adjustments to the level of resources available
  - Dealing with high or low expectations of revenue, expenses or programing
  - Legal requirements
  - Level of understanding
  - Accuracy of projections and assumption

# MAMC Clerking 101

## Budget, cont.

- Three steps of the annual budgetary process
  - Preparation
    - Usually begins 3-5 months prior to adoption.
    - Chart of accounts is generally organized by department responsibility, or function/activity.
  - Adoption
    - Date is set.
  - Execution
    - On going for the year.

# MAMC Clerking 101

## Budget, cont.

- Preparation of the Budget
  - This is usually the responsibility of the main financial executive of the municipality for example could be:
    - Village Manager
    - Township Supervisor
    - Mayor
    - Chief Financial Officer
  - The job is to analyze the financial data and project into the future the activities, functions, and programs that need to be accomplished and the costs associated with each.

# MAMC Clerking 101

## Budget, cont.

- Adoption of the Budget
  - After the budget is prepared, it gets presented to the Board, Council, Committee for consideration, modification, and for final approval.
  - Public Hearings allow the public to participate and give input.
- Execution of the Budget
  - Accounts are set up to record:
    - Estimated Revenues
    - Appropriations in the funds
  - Budget Amendments are used to adjust the “Budget.”
    - This process is determined by the municipality.
    - Amendments can be presented as often as needed or on a time based basis.
      - Monthly, Quarterly or even yearly



# MAMC Clerking 101

## Budget, cont.

- Types of Budgets
  - Line Item
  - Cost Center
    - Department.
    - Activity.
    - Program or Function.
  - Fund total.
- Accounting Basis Used
  - Cash Basis.
  - Modified Accrual Basis.
  - Full Accrual Basis.
  - Others Comprehensive Basis.
  - Whatever basis used must include prior year actual figures, current year estimates, and the proposed budget figures
  - Must also include the “fund balance” projected to the end of the budget year this amount must be positive-definition of “Balanced Budget.”

# MAMC Clerking 101

## Budget, cont.

- **Revenue**

- State Shared Revenue
  - State of Michigan Department of Treasury
  - Act 51:
    - Creates state trunkline system and defines who pays for what.
  - Taxable Value
  - Millage Rates
  - Projected Growth/Loss in State Equalized Value
    - Real and Personal Property

- **Expenditures**

- Wages
  - Union Contracts
  - Detail or each department
  - Salary information
  - Benefits for each category
  - Overtime level by category and department
  - Projected capital outlay
  - Projected debt service requirements

# MAMC Clerking 101

## Budget, cont.

- Budget Fund Balance
  - Rule of thumb for fund balance should equal at least 10 percent of annual budgeted expenditures.
    - Currently 15 to 20%
  - Considerations:
    - Special projects
    - Capital Asset Acquisitions
    - Contingent Liabilities:
      - Lawsuits
      - Environmental cleanup
      - Michigan Tax Tribunal
      - Other potential revenue reductions
- If a deficit exists
  - State statutes require local governments to file a “deficit elimination” plan.

# MAMC Clerking 101

## Licensing and Permits

- Liquor License – requires State approval
- Medical and Recreational Marijuana – requires State approval
- Dog Licenses – clerk/treasurer/county
- Other animals (backyard chickens)
- Business Licensing – local ordinances may regulate
- Commercial Quadricycle (“pedal pubs”)
- Passports?
- Vital Records? – some cities, mostly county function
  
- Your responsibilities will depend on your Charter, Ordinances and Resolutions. Check ordinances to ensure up-to-date. Remove permits/processes that are obsolete.

# Resources

## CLERK PROFESSION

[www.iimc.com](http://www.iimc.com)

[www.michiganclerks.org](http://www.michiganclerks.org)

[www.michigancountyclerks.us](http://www.michigancountyclerks.us)

[www.icrm.org](http://www.icrm.org)

[www.nagara.org](http://www.nagara.org)

[www.parliamentarians.org](http://www.parliamentarians.org)

Parliamentarians

[www.iacreot.com](http://www.iacreot.com)

## LOCAL GOVERNMENT

[www.michigantownships.org](http://www.michigantownships.org)

[www.mml.org](http://www.mml.org)

[www.micounties.org](http://www.micounties.org)

[www.natat.org](http://www.natat.org)

[www.nlc.org](http://www.nlc.org)

[www.naco.org](http://www.naco.org)

International Institute of Municipal Clerks

Michigan Association of Municipal Clerks

Michigan Association of County Clerks

Institute of Certified Records Managers

National Association of Government

Archives & Records Administrators

National Association of

International Association of Clerks,

Recorders, Election Officials and Treasurers

Michigan Township Association

Michigan Municipal League

Michigan Association of Counties

National Association of Towns and

Townships

National League of Cities

National Association of Counties

# Resources

## **ELECTION**

[www.fec.gov](http://www.fec.gov)

[www.michigan.gov/sos](http://www.michigan.gov/sos)

[www.electioncenter.org](http://www.electioncenter.org)

[www.electionline.org](http://www.electionline.org)

Federal Election Commission

Michigan Secretary of State

Election Center

Election Line

## **LEGISLATIVE**

[www.michiganlegislature.org](http://www.michiganlegislature.org)

[thomas.loc.gov](http://thomas.loc.gov)

Michigan Compiled Laws and Bills

The Library of Congress Legislative  
Information

# Resources

## OTHER USEFUL SITES

[www.census.gov](http://www.census.gov)

[www.michigan.gov/lara](http://www.michigan.gov/lara)

[www.michigan.gov/treasury](http://www.michigan.gov/treasury)

[www.michigan.gov/dtmb](http://www.michigan.gov/dtmb)

[www.migfoa.org](http://www.migfoa.org)

Finance

Association

[www.gfoa.org](http://www.gfoa.org)

U.S. Census Bureau

Department of Licensing and  
Regulatory Affairs

Department of Treasury

Department of Technology,  
Management, and Budget

Michigan Government  
Officers

Government Finance Officers  
Association of the US and Canada

# Questions and Answers

(maybe not the ones you want, but answers!!)

**Thank you  
very much!!!**