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CITY OF Vancouver WASHINGTON

City Council Meeting Minutes

Vancouver City Hall | Council Chambers | 415 W. 6th St.
PO Box 1995 | Vancouver, WA 98668-1995
cityofvancouver.us

Anne McEnerny-Ogle, Mayor • Bart Hansen • Ty Stober • Erik Paulsen • Sarah J. Fox • Diana H. Perez • Kim D. Harless

January 27, 2025

Workshops: 4:30-6:00 p.m.

Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

Workshops were conducted in person in the Council Chambers of City Hall. Members of the public were invited to view the meeting in person, via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, or www.facebook.com/VancouverUS.

View the CVTV video recording, including presentations and discussion, for workshops at: https://www.cvtv.org/vid_link/37091?startStreamAt=0&stopStreamAt=5061

Homeless Situation Report Update
(approximately 45 minutes)

Jamie Spinelli, Homeless Response Manager, jamie.spinelli@cityofvancouver.us

Staff led Council through a discussion of the Homeless Situation Report Update.

Councilmember Hansen joined the meeting remotely.

Green Building Program - Building Policies Review
(approximately 45 minutes, to immediately follow the previous workshop)

Rebecca Small, Senior Policy Analyst, Chad Eiken, Community Development Director, rebecca.small@cityofvancouver.us, chad.eiken@cityofvancouver.us

Staff led Council through a discussion of the Green Building Program - Building Policies Review.

Councilmember Hansen joined the meeting remotely.

Council Dinner / Executive Session Re: Pending or Threatened Litigation RCW 42.30.110(1)(i)(iii) (30 Min)

Mayor McEnerny-Ogle announced the Council would be entering into executive session from 6:00-6:30 p.m. to discuss Pending or Threatened Litigation.

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Regular Council Meeting

6:30 PM
Vancouver City Hall - Council Chambers - 415 W 6th Street, Vancouver WA

This meeting was conducted as a hybrid meeting with in person and remote viewing and participation over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting in person, via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda items and under the Community Forum were also facilitated in person and via the GoToMeeting conference call.

Vancouver City Council meeting minutes are a record of the action taken by Council. To view the CVTV video recording, including presentations, testimony and discussion, for this meeting please visit:
https://www.cvtv.org/vid_link/37093?startStreamAt=0&stopStreamAt=4225

Electronic audio recording of City Council meetings are kept on file in the office of the City Clerk for a period of six years.

Pledge of Allegiance

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted as a hybrid meeting, including both in person and remotely over video conference.

Present: *Councilmember Harless, Councilmember Perez, Councilmember Fox, Councilmember Paulsen, Councilmember Stober, Councilmember Hansen, Mayor McEnerny-Ogle*

Absent: *None*

Councilmember Hansen joined the meeting remotely.

Approval of Minutes

Minutes - January 6, 2025

Motion by Councilmember Fox, seconded by Councilmember Paulsen, and Yes: 6, No: 0, Abstaining: 1, to approve the Meeting Minutes of January 6, 2025. Absent from vote: Councilmember Stober. Councilmember Stober was not in Council Chambers during the vote.

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Motion by Councilmember Paulsen, seconded by Councilmember Perez, and Yes: 6, No: 1, Abstaining: 0, to approve the Meeting Minutes of January 13, 2025. Absent from vote: Councilmember Stober. Councilmember Stober was not in Council Chambers during the vote.

Community Communication

This is the place on the agenda where the public is invited to speak to Council regarding any matter on the Agenda not already scheduled for Public Hearing. (Separate instructions are provided for offering testimony on Public Hearing when applicable.) This includes the option to testify about Workshops. Members of the public addressing Council are requested to give their name and city of residence for the audio record. Speakers are to limit their testimony to a total of three minutes for all items combined.

Mayor McEnerny-Ogle opened Community Communication and received testimony from the following community members regarding any matter on the agenda not scheduled for a Public Hearing:

- *Kimberlee Goheen Elbon, La Center, WA*
- *Carmen DeLeon, Vancouver*
- *Josh Artenstein, Vancouver*
- *Shannon Stamp, Vancouver*
- *Matt Trevino, Vancouver*

There being no further testimony, Mayor McEnerny-Ogle closed Community Communication.

Consent Agenda

The following items will be passed by a single motion to approve all listed actions and resolutions. There will be no discussion on these items unless requested by Council. If discussion is requested, the item will be moved from the Consent Agenda and considered separately – after the motion has been made and passed to approve the remaining items.

Council pulled items 3, 6, and 7 for discussion.

Motion by Councilmember Paulsen, seconded by Councilmember Fox, and Yes: 7, No: 0, Abstaining: 0, to approve items 1, 2, 4, 5, 8 and 9 on the Consent Agenda.

Motion by Councilmember Fox, seconded by Councilmember Paulsen, and Yes: 7, No: 0, Abstaining: 0, to approve Item 3 on the Consent Agenda.

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Motion by Councilmember Fox, seconded by Councilmember Perez, and Yes: 7, No: 0, Abstaining: 0, to approve Item 6 on the Consent Agenda.

Motion by Councilmember Fox, seconded by Councilmember Paulsen, and Yes: 7, No: 0, Abstaining: 0, to approve Item 7 on the Consent Agenda.

1. Construction Acceptance - Water Station 1 Replace Drinking Water Wells 3-5

Staff Report: 010-25

Request: On Monday, January 27, 2025, accept the new wells as constructed by Holt Services, Inc., of Edgewood, WA and authorize release of the contractor's retainage, subject to receipt of all documentation required by law.

Patrick Craney, Water Resource Engineer, patrick.craney@cityofvancouver.us

Motion approved the request.

2. Bid Award - West 4th Plain (BNSF Crossing) Water Transmission Main - ITB 24-49

Staff Report: 011-25

Request: On Monday, January 27, 2025, award a construction contract for the W 4th Plain (BNSF Crossing) Water Transmission Main project to the lowest responsive and responsible bidder, Tapani Incorporated of Battle Ground, Washington, at their bid price of $2,427,936.24, which includes Washington State sales tax.

Mehrin Selimgir, Civil Engineer, Mehrin.Selimgir@cityofvancouver.us

Motion approved the request.

3. Bid Award - Oakbrook Park Development Project - ITB #25-03

Staff Report: 012-25

Request: On Monday, January 27, 2025, award a construction contract for Oakbrook Park development to the lowest responsive and responsible bidder, Capture Energy, of Woodland, Washington and authorize the City Manager, or designee, to execute a contract and approve any required amendments for the bid amount of $1,890,181.72 including Washington State sales tax.

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David Perlick, Director of Parks, Recreation and Cultural Services, Roman Gutierrez, Park Developer 2, david.perlick@cityofvancouver.us, Roman.Gutierrez@cityofvancouver.us

Motion approved the request.

4. Easement Release - 2301 NE 18th St - AFN G662733

Staff Report: 013-25

Request: On Monday, January 27, 2025, authorize the City Manager, or designee, to sign the attached easement release.

Nick Massey, Civil Engineer, Nick.Massey@cityofvancouver.us

Motion approved the request.

5. 2025 Washington Traffic Safety Commission Grant - Law Enforcement Liaison

Staff Report: 014-25

Request: On Monday, January 27, 2025, authorize the City Manager, or designee, to approve the 2024-2025 Washington Traffic Safety Commission Law Enforcement Liaison Grant in the amount of $3,000.

Daphine Harris, Finance and Logistics Supervisor, Troy Price, Police Chief, daphine.harris@cityofvancouver.us, troy.price@cityofvancouver.us

Motion approved the request.

6. Resolution to Accept Bequests/Cash Donations

A RESOLUTION accepting a donation resulting from the bequest of Clement Joseph Epping to support Vancouver Police Department.

Staff Report: 015-25

Request: On Monday, January 27, 2025, adopt a resolution to accept $312,613.70 from the Estate of Clement Joseph Epping.

Daphine Harris, Finance and Logistics Supervisor, Troy Price, Police Chief, daphine.harris@cityofvancouver.us, troy.price@cityofvancouver.us

Motion adopted Resolution M-4322 to approve the request.

7. Multi-Family Tax Exemption Boundary Expansion

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AN ORDINANCE of the City of Vancouver relating to changes to the City's Multi-Family Housing Tax Exemption Program (MFTE); adopting amendments to the Mill Plain Target Area Boundary amending Section 3.22.030, of the Vancouver Municipal Code (VMC); providing for severability; and setting an immediate effective date.

Staff Report: 016-25

Request: On Monday, January 27, 2025, advance the ordinance, setting the date for the second reading and public hearing for February 3, 2025.

Bryan Monroe, Associate Housing Project Coordinator, bryan.monroe@cityofvancouver.us

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Motion approved the request.

8. 2024 Comprehensive Plan and Zoning Text Changes

AN ORDINANCE relating to Comprehensive Plan and Zoning for the City of Vancouver and the Vancouver Municipal Code (VMC) Title 20; amending the Capital Facilities Plan 6-year project list, a part of the Vancouver Comprehensive Plan 2011-2030; amending VMC 20.210, 20.245, 20.290, 20.320, 20.330, and 20.430; providing for severability; and establishing an effective date.

Staff Report: 017-25

Request: On Monday, January 27, 2025, advance the first reading of the ordinance, setting a second reading for February 3, 2025.

Bryan Snodgrass, Principal Planner, bryan.snodgrass@cityofvancouver.us

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Motion approved the request.

9. Approval of Claim Vouchers

Request: Approve claim vouchers for January 27, 2025.

Motion approved claim vouchers in the amount of $20,764,089.03.

Communications

A. From the Council

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B. From the Mayor

C. From the City Manager

Community Forum
This is the place on the agenda where the public is invited to speak to Council regarding any matter. Members of the public addressing Council are requested to give their name and city of residence for the record. Speakers are to limit their testimony to a total of three minutes. Up to 90 minutes will be allotted for the Community Forum.

Mayor McEnerny-Ogle opened the Community Forum and received testimony from the following community members regarding any matter:

- Jim Williamson, Vancouver
- Carmen DeLeon, Vancouver
- Kimberlee Goheen Elbon, La Center, WA

There being no further testimony, Mayor McEnerny-Ogle closed Community Forum.

Adjournment

7:49 p.m.

DocuSigned by:
Anne McEnerny-Ogle
6C89D9089EC5424...
Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
493E940414AE4BD...
Natasha Ramras, City Clerk

The written comments below are those of the submitter alone and are not representative of the views of CVTV or the City of Vancouver, its elected or appointed officials, or its employees.

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From: James Wu
To: City Council
Subject: Comment for City Council meeting 1/27
Date: Sunday, January 26, 2025 10:26:16 PM

You don't often get email from [redacted]. Learn why this is important

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bike stall requirements are a step in the right direction, however what we need to focus on is the addition of protected bike lanes in order to encourage more bike usage. Currently many of the roads in Vancouver do not have protected bike lanes and thus it feels dangerous to even consider taking a bike to destinations.

The addition of bike parking should only be to accommodate where there is a lack of bike parking in places, but currently it feels like people would be more incentivized to drive everything as opposed to biking due to the dangers of biking in unprotected lanes.

As such I would like to see more projects to increase bike lanes, maybe we can allocate unused parking spaces to such projects? Just as a suggestion.

James Wu
[redacted], Vancouver, WA 98665

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From: PETER BRACCHI
To: City Council
Subject: City Council 1/27 Wa State mayor & council member Handbook
Date: Sunday, January 26, 2025 7:28:22 PM
Attachments: mayorcouncilmemberhandbook.pdf
image0.png

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor and Council please read this guide.

Peter Bracchi

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Mayor & Councilmember Handbook

AWC
ASSOCIATION OF WASHINGTON CITIES

MRSC

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Mayor & Councilmember Handbook

MRSC Report No. 44
Revised September 2023

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Mayor & Councilmember Handbook

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AWC's mission is to serve our members through advocacy, education, and services.

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1076 Franklin St. SE, Olympia, WA 98501
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wacities.org

MRSC's mission is to support effective local government in Washington through trusted consultation, research, training, and collaboration.

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Last updated September 2023

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Chapter 1

Introduction

While this handbook is primarily intended to serve as a reference guide for mayors and councilmembers in Washington cities and towns operating under the mayor-council form of government, mayors and councilmembers in cities operating under the council-manager form of government will also find this handbook full of relevant and useful information.

A mayor in a mayor-council form of government wears many hats. As the chief executive officer of the city, you will deal with human resources, contracts, budgeting, labor relations, and a host of other issues. When chairing council meetings and public hearings, or when dealing with the press, you will have to choose your words carefully, deciding when is the appropriate time to be tactful or more direct.

It's no wonder that mayors and councilmembers often feel overworked and underpaid! Those who come to the job without having substantial experience in city government have a lot to learn. We hope this publication serves as both a basic primer on the role of a mayor and councilmember and as a resource with answers to some frequent problems.

Use this publication to learn how to get information, assistance, and advice. When your questions are not answered by the text, it will hopefully guide you to either the relevant statutes and publications, or to those people who can best answer your questions.

Being an effective leader is not something that just magically happens when you are elected to office. Leadership skills must be learned. Mayors and councilmembers need to listen to the residents of the city, develop goals, and then work effectively with each other to achieve your objectives. There are a lot of people counting on you. They want you to succeed and so do we. Good luck!

Note: Unless the context or the references specifically indicate otherwise, the use of the term "city" or "cities" in this publication is meant to include "town" or "towns."

Remember – when you have a particular problem, chances are somebody else, whether it be another councilmember, a mayor of a different city, or a member of the city leadership team, has already dealt with the same issue. Use your professional network of city leaders for guidance on problems that arise.

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Chapter 2

Know your form of government

It is important to know your city's classification. Also important are the different forms (sometimes called "plans") of government in Washington: mayor-council, council-manager, and commission. This section explains some of the basics. The city clerk can tell you your city's classification. MRSC's web page Washington City and Town Profiles also lists each city classification and form.

Almost all cities have an elected official with the title of "mayor," but the authority of the mayor depends upon the form of the government. Mayors in mayor-council cities are sometimes referred to as "strong mayors" because they have considerably more authority than mayors in council-manager cities. The distinction is explained further below under Forms of City Government.

City classification

City and town governments in Washington are classified according to their population at the time of organization (usually incorporation) or reorganization. There are four basic classifications for municipalities in the State of Washington: first class cities, second class cities, towns, and code cities.

4 classes of cities

- First class cities
- Second class cities
- Towns
- Code cities

Although some of the state laws (statutes) are the same for all classes of cities, many of the laws are different. State laws are located in different chapters of the Revised Code of Washington. The Revised Code of Washington (RCW) is the compilation of the laws passed by the state Legislature. "Statutes" are the laws contained in the RCW.

In 1890, the Legislature established four classes of municipal corporations: first, second, and third class cities, and fourth class municipalities, known as towns.[1] However, in 1994 the Legislature eliminated the third class city classification and those cities automatically became second class cities. Reference to fourth class municipalities was also dropped – they are now referred to exclusively as towns. An additional classification, the optional municipal code city, was provided in 1967 1967 to grant broad powers of local control similar to first class cities.[2]

One city, Waitsburg, remains as an unclassified city operating under a territorial charter. Unclassified cities are holdovers from the pre-statehood era, when cities could adopt their own territorial charters.

[1] First Class Cities: RCW 35.22; Second Class Cities: RCW 35.23; Third Class Cities: formerly RCW 35.24; Towns: RCW 35.27.

2 Optional Municipal Code Cities: RCW 35A Optional Municipal Code

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Comparison of powers

Key differences between second class cities, code cities, and towns.

First class cities are not listed as their powers and structures are derived from their charters, which vary depending on the city. Generally they have broad home rule powers governing matters of local concern and all powers granted to any class of city. (MRSC - City and Town Classification)

Powers	Code city	Second class city	Town
Home rule authority	Broad authority in all matters of local concern.	Only those powers expressly or implicitly granted by legislature.	Only those powers expressly or implicitly granted by legislature.
Construction of powers	Requires liberal construction of powers granted to it.	Governed by rule of strict construction of powers granted to it.	Governed by rule of strict construction of powers granted to it.
Limits of power	All powers granted to any class of city and any not specifically denied.	Only powers granted specifically to this class or all classes.	Only powers granted specifically to this class or all classes.
Limitations on special meetings	No approval of an ordinance or resolution granting a franchise.	No approval of: an ordinance or resolution granting a franchise; or an ordinance, contract, or bill for the payment of money.	No approval of: an ordinance or resolution granting a franchise; or a resolution or order for the payment of money.
Emergency clauses	Authority to include in most types of ordinances for protection of public health, safety, property, or peace.	Specific authority only for emergency expenditures in specified situations.	Specific authority only for emergency expenditures in specified situations.
Mayoral veto power over ordinances*	Yes	Yes	No
Mayor has tie-breaking vote*	Yes, except on issues of payment of money or franchises.	No	Yes, except on issues of payment of money or franchises.
Initiative and referendum	May adopt	May not adopt	May not adopt
Allowance of wards	Yes, with no restrictions.	Yes, with a maximum number of wards permitted.	Cannot have wards.

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What difference does it make?

Depending on the city classification, there are some important differences with respect to the power and authority of the city government. Some of the differences are highlighted in this chapter. Note: See Appendix 1 for details regarding the specific powers and responsibilities of a mayor by city classification. The information in Appendix 1 will be an important reference to make decisions and then take action in the days ahead.

Optional municipal code cities

The optional municipal code, Title 35A RCW, was devised in 1967 as an alternative to the existing statutory system of municipal government in Washington. The basic objective of the code was to increase the abilities of cities to cope with complex urban problems by providing broad statutory home rule authority in matters of local concern to all municipalities, regardless of population.

Cities operating under the optional municipal code are commonly referred to as code cities.

Under the optional municipal code, cities may take any action on matters of local concern so long as that action is neither prohibited by the Washington State Constitution nor in conflict with the general law of the state. The powers granted to code cities include all the powers granted to any other class of city in any existing or future legislative enactment, unless the Legislature specifically makes a statute inapplicable to code cities.

Charter cities

The Washington State Constitution provides that cities and towns with a population of 10,000 or more can frame a charter for their own government, subject to all the general laws of the state.[3] All of the 10 first class cities have charters at this time. Only one code city, Kelso, has adopted a charter. As with code cities, the powers granted to first class cities are broad home rule authority in matters of local concern and include all the powers granted to any other class of city.

Understand local authority or home rule powers

As one of the country's first home rule states, Washington city officials should understand the key legal concept of home rule.

Home rule is the right to locally govern on issues of local concern: "the authority of a local government to control its local affairs without interference from the state."[4] With home rule powers, a city may exercise the same powers as the state, except for any powers specifically denied in law. If either the state constitution or state statutes are silent about a city's power on a specific local issue, then under home rule, a city has the authority to pass laws to address the issue.

Importantly, the city does not need the state to grant it permission to act. The essence of home rule power is that the city already possesses the power. The city—not the state—decides when and how to wield it based on local circumstances.

[3] Constitution, Article XI, Section 10, as amended by Amendment 40.

[4] First, second class cities, and towns: laws governing the mayor-council plan are found in the respective RCW chapters for each class of city: RCW 35.22, RCW 35.23, and RCW 35.27. Optional Municipal Code cities: RCW 35A.12.

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Forms of municipal government

There are three basic forms of municipal government in Washington: mayor-council, council-manager (also known as the city manager plan), and commission form. Sometimes the "form" of government is also referred to as the "plan of government" or "organization." (See Appendix 1 for more details on the mayor's powers in each form of government.)

Mayor-council form of government

In the mayor-council form, policy and administration are separated. All legislative and policymaking powers are vested in the city council. The administrative authority, including a veto power (except in towns), is vested in the mayor.

Council-manager form of government

All legislative and policymaking powers are vested in the city council. The council employs a professionally trained public administrator, the city manager, to carry out the policies it develops. The city manager is the head of the administrative branch of city government. By statute, the mayor is selected by the city council from among its members, although this may also be done by election.

The mayor's responsibilities are primarily to preside at council meetings, and act as head of the city for ceremonial purposes and for purposes of military law. The mayor votes as a councilmember and does not have any veto power (RCW 35.18.190; RCW 35A.13.030-.033 Optional Municipal Code cities).

Commission form of government

Currently, there are no cities that operate under the commission form of government. The commission form gives one elective body combined authority over the executive and legislative functions of municipal government. The commissioners, sitting as a body, are authorized to determine by ordinance the powers and duties of all officers and employees of each department. Each commissioner administers a separate department. The mayor has essentially the same powers as other members of the commission. The mayor has no veto power or any power to direct general city administration other than in their own department (RCW 35.17).

3 forms of government

- Mayor-council
- Council-manager
- Commission

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Additional resources:

Washington City & Town Officials Directory Mobile App, MRSC

Code City Handbook, MRSC

The Closest Governments to the People: A Complete Reference Guide to Local Government in Washington State (2015), Steve Lundin, MRSC

"Home Rule" vs. "Dillon's Rule" for Washington Cities, Hugh Spitzer, 38 Seattle U.L. Rev. 809 (2015)

Change in classification or form of government

The classification of a city or town can be changed. Cities and towns have the power to advance their classification when the population increases sufficiently and there is an election (RCW 35.06). A city or town with at least 10,000 inhabitants may become a first class city by adopting a charter. A town with at least 1,500 inhabitants may become a second class city (RCW 35.06.010).

Any incorporated city or town may become a noncharter code city by following the procedures in RCW 35A.02.

Any city may also change its form of government. In general, the procedure may be initiated either by a resolution adopted by the city council or by a petition process, both followed by an election.

Washington cities classification & form of government summary*

Class	Mayor-council	Council-manager	Total
First	6	4	10
Second	5	0	5
Town	68	0	68
Code	147	50	197
Unclassified	1	0	1
Total	**227**	**54**	**281**

*As of February 2023

See MRSC's *Washington City & Town Officials Directory Mobile App* for specific data on each city, its population, classification, and form of government.

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Chapter 3

Getting started

By their action at the polls, the people of your community have given you a vote of confidence and expressed faith in your ability to act in their best interest. And you don't want to let them down. But as the election campaign fades in your memory, the magnitude of your new job begins to sink in. Whether you come to this job after years of service to the city or were elected with no prior background in city government, there's still a lot to learn.

As a new mayor or councilmember, you have a lot to learn about providing leadership and governing. But don't take yourself or the business of government so seriously that you don't enjoy it. It should be a fun and rewarding experience.

Your first days on the job

The role of mayor varies greatly from city to city, depending on the form of government, history, and level of involvement. Some new mayors are overwhelmed by the amount of administrative work that their job entails. Many councilmembers also feel overwhelmed by everything they need to learn and are sometimes surprised to discover that there are limits on their role in making decisions and setting city policy.

What is clear, however, is that it is a very big job. Here are some tips for getting started.

Getting oriented

First on the agenda should be a thorough orientation session – a broad overview of the functions of the city to include finance, public works, public safety and other departments. The mayor or city manager will want to arrange time to sit down with the city clerk and key department heads. Take this opportunity to learn all you can about your city, its history, its operation, and its financing.

Your orientation should also include a tour of the physical facilities of the city. A firsthand inspection is often the best way to acquaint yourself with the city's operations.

"When the burdens of the presidency seem unusually heavy, I always remind myself it could be worse. I could be a mayor."

– Lyndon B. Johnson

Keeping some perspective

- **Pace yourself.** Recognize that life – and the city – is dependent on a lot of things over which we have little control. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out.
- **Develop a thick skin.** Remember that they don't dislike you personally, they just don't like your ideas.
- **The job of mayor** is a unique combination of stress and joy.
- **Nurture your personal life**. Cutting back on family hours won't make you a better mayor.
- **Be yourself**. Don't try to be something you are not.

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Review key documents

The following is a list of key city documents you will want to review. Ask your clerk or other staff if they exist and to help you locate them. Also, ask them to suggest other useful documents.

- Current operating and capital budgets
- Information on key programs and services
- Comprehensive annual financial report
- Organizational chart, staff roster and phone list
- The organization's primary planning documents
- Map showing city boundaries, buildings and facilities
- Mission statement and goals
- Council rules/meeting procedures
- Meeting minutes for last twelve months
- Work program and significant staff reports from last twelve months
- Human resource policies and other administrative policies
- Facts about your city: population, form of government, incorporation date, number of employees, total budget, total debt, etc.
- List of governmental agencies providing services or impacting your organization
- Calendar of important events

Don't be afraid to ask questions. You are not expected to know all the answers immediately. The mayor will want to find out about council salaries and benefits, employee vacation and sick leave policies, purchasing procedures within departments, proposed development projects – anything you need to know for a better understanding of city operations and issues currently facing your community.

Legal restrictions

Keep in mind that your city's adopted ordinances, typically codified as your municipal code, must be followed until the council takes action to amend them. And that's just the beginning – the number of federal and state laws and regulations that also govern your actions can be mind-boggling! If you are unsure of your responsibilities or authority in certain areas, be sure to seek clarification from your city attorney.

Mayor's role in working with staff

Whether you can spend a lot of time at city hall or have a full-time job in addition to your mayoral responsibilities, you'll soon come to depend heavily on your key administrative staff.

In almost all cities, the city clerk performs a multitude of tasks. This is particularly true in the smaller jurisdictions. A city administrator often oversees administration in larger cities.

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Value and respect your staff

If your city is fortunate enough to have experienced staff, recognize these individuals as a valuable resource – don't take them for granted or casually replace them.

A good clerk and administrator can be your lifeline, helping you to fulfill your legal responsibilities and ensure that the city functions smoothly. Staff who have been with the city for some time have some valuable historical perspectives, and can help "fill in the gaps" for a new mayor.

Make sure your staff are well trained and keep up in their field – encourage your clerk (and/or administrator) to attend training sessions and professional meetings of their peers. These sessions are well worth the investment – staff can learn from their peers around the state, avoid reinventing the wheel, and share challenges and solutions.

Resist the urge to drastically change the organization before you know how it really works. Many of your city's policies have evolved over the years through trial and error. While some methods may appear to need an immediate overhaul, it pays to watch the operation for a while before trying new methods. Don't seek change simply to do things differently!

Give yourself at least six months to learn the fundamentals of the task you have undertaken. Many potentially fine public servants have come to an unhappy ending because of errors in judgment they made by being overly aggressive during those first six months. Even if you come to the mayor's job with many years of service on the council, you will find there is still a lot to learn.

Public and private sector differences

A word of caution: You may have run for office with the pledge to "run the city more like a business." While there are certainly similarities, there are some important differences between the public and private sectors that will become apparent as you get used to your new role.

Here are just a few of those differences:

- Much of your work will be done in the public eye. Consequently, things may move more slowly and take more time. All deliberations of council are done in public meetings and most public records are available to anyone.
- City revenues are limited by laws. You can only raise taxes so high, so you can't always pass on the costs directly to the consumer.
- There are more unions in the public sector. Salaries are often compared to employees in other cities. It is common for employees to expect an annual cost of living increase.
- Public employees have different constitutional rights and more legal protections. With additional laws governing your actions as an employer, you can expect more grievances, claims and litigation.
- Some things that you may just consider "good business sense" could run afoul of our state constitution's prohibition against "gifts of public funds." (See Article VIII, § 7 of the state constitution.)
- Public works projects and contracting often must go through a public bidding process. This takes more time and sometimes costs more.

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Additional resources:

Racial Equity Toolkit, Government Alliance on Race & Equity (GARE)

Diversity, Equity, and Inclusion Resources for Local Governments, MRSC

How to get started in diversity, equity, inclusion, and belonging (DEIB), AWC

The value of building a diverse, equitable, and inclusive city

As one of the governments closest to the people, cities and their leaders should make efforts to foster an inclusive community and city hall. One important goal of democracy is to have a government that reflects the community it serves. This enables the community's wisdom to make government more effective and responsive to people's needs, with services more closely matched to the people who make up the community.

Mayors and councilmembers can be agents of change at the local level—listen to your residents, work to translate community concerns into actionable policy ideas, and then collaborate to find potential solutions. Many city leaders have listened to their communities and agree that more needs to be done to advance racial equity. Right now is always a good time to start turning talk into action.

Internal and external solutions to inequities can be as unique and diverse as our community members who have been historically excluded from full societal benefits and participation. Take stock of the policies and practices in place at your city and consider how each might impact every resident of your city. Start community conversations and intentionally include and collaborate with people from all backgrounds.

Every community has underrepresented populations who can be unintentionally left out of policies and practices. Take time to research your city's historical disparities and then use that information to generate ideas for future improvements—no matter your city's size or location.

How to get started in diversity, equity, inclusion, and belonging (DEIB)

Creating a clear vision for DEIB practices in cities

Cities and towns are intentionally and strategically making diversity, equity, inclusion, and belonging a priority in their local policies, planning, procedures, and programs.

There is no perfect formula for getting started, but we can learn a lot from those already on this journey and what's working for them. Key actions that can be taken include the following:

- Creating a clear vision
- Developing goals and outcomes
- Incorporating vision and goals into work and business plans
- Providing training for all stakeholders
- Developing a means to assess progress
- Continually engaging your community on progress
- Requesting feedback

The most critical of all these action items is creating a clear vision for your DEIB program. A DEIB vision serves as a frame and guide for your goals, strategies, outcomes, and indicators of success.

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Practical advice

Helpful pointers from other elected officials.

Initial words of wisdom ...

- **Listen.** Listen to everyone. Listen until your ears fall off. Soak it up. After six months in office, you will round out the picture of the complexities of city government and your role.
- **Take notes for the first six months on relevant city business items.**
- **Don't be afraid to say, "I don't know."**
- **Don't make promises you can't deliver!** Most major decisions and actions require approval of the council.
- **Gear your mind to process a tremendous amount of seemingly conflicting information.**
- **Don't enter office with an unmovable set agenda.** Learn as much as possible before taking on a major program or effort. Don't be strangled by campaign promises that were made without sufficient information.
- **If you come on board as a big critic of the "way things have been done,"** you may be surprised to find how hard the job really is. You'll soon gain better appreciation for those who came before you.
- **The job can be very complex.** Try to stay focused on the big issues.

Mayors will want to...

- **Meet with each department head separately.** Learn all you can. Spend time with the previous mayor, if feasible.
- **Ask for help when you need it.** Don't be afraid to use outside resources (your attorney, AWC, MRSC, a neighboring city or county).
- **Don't be intimidated by larger cities.** Bigger cities have many of the same problems and may be willing to lend expertise or staff resources.
- **Network with others in the same boat.** Have monthly lunches with mayors from neighboring communities. They can provide support, new ideas, and an opportunity to vent.
- **Find an experienced mentor from another city.** Ask for advice when you need help. You'll get empathy and a clearer vision from someone who has been there.
- **Ask opinions, and listen.** Spend time with those individuals who have different opinions than yours (maybe even your opponent in the election). Listen, don't argue the points, then rethink your positions.
- **Don't reinvent the wheel.** Someone has probably done it elsewhere. Use information available from MRSC and AWC. Attend workshops and conferences, especially the AWC Annual Conference.

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Chapter 4

The mayor's leadership role

See if you can develop a vision of what your city should look like in the future, and work with others to that end.

The mayor occupies the highest elective office in the municipal government and is expected to provide the leadership necessary to keep the city moving in the proper direction. Effective mayors see themselves not only as leaders staking out policy positions, but also as facilitators of effective teamwork.

As a mayor, you have a special set of long-term responsibilities not shared by many others. You are supposed to be a community leader and a political leader. Yet most of the trials and tribulations you will face during your term of office will deal with city housekeeping. These day-to-day activities are of immediate concern to most residents, and sometimes solving the little problems are the most fun.

But you need to find time to deal with the important policy issues and some of the long-term future concerns. Try to make your city a better place to live tomorrow, not just today.

If you can leave something of long-term consequence to improve your community, you will at least have the satisfaction of a job well done, and that is the principal reward of public service.

Setting goals

The role of the city council in cities of all sizes is becoming more demanding and complex. In order to get anything accomplished, elected officials must work together to define and agree upon mutual goals. This is one of the most challenging aspects of being a mayor and working with a city council.

Goal setting provides a framework for city action. By setting short-term and long-term goals, and then deciding which are most important, you and the council can define what your city government will try to achieve. Staff then have clear guidelines regarding what you and the council want to accomplish, and you have a way of evaluating your programs and services.

Establishing goals will keep you on track and minimize distraction from the brush fires.

Some cities plan goals through council retreats. Some use outside facilitators to assist with this process.

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A simple goal-setting process

The basic idea is to start with the big picture and work to ensure that your day-to-day tasks relate back to that big picture. Periodically, you'll want to look back at your goals and evaluate what you've accomplished, and decide what changes you want to make, if any.

Step 1. Identify issues and needs

Before you can set goals, you have to come to some agreement on what needs to be done. As a group, come up with an overall list of issues and needs, including councilmembers' ideas and residents' concerns. Narrow down that list to a workable number of problems and needs to be addressed.

Step 2. Set goals

Once you've developed a focused list of needs or problems, describe what you hope to do to eliminate each problem or meet each need. The goals you express may be both community goals and goals for your particular governing body to accomplish.

Step 3. Set objectives

Objectives are the specific short-term strategies to meet your goals. They are statements of accomplishments to reach within a specific time frame. By setting objectives, the council can focus on a series of realistic goals and can then determine the resources needed to accomplish them.

Step 4. Set priorities

Setting priories is the most important step in the goal-setting process. Comprehensive goal setting results in more objectives to accomplish than is possible in the time available, so you've got to set priorities. Decide what areas need attention now and which ones can be delayed. A simple rating and ranking exercise can help you determine which areas are of highest concern.

Step 5. Start an action program

Once you've decided on goal priorities, work with staff to develop specific programs and timelines to meet your goals.

Step 6. Evaluate the results

You'll want to establish a formal process for evaluating goal progress. Are you reaching them? Are they still appropriate? Do any need to be dropped or altered?

Additional resource:

Center for Government Innovation, Washington State Auditor's Office

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Public relations

- Remember that what you say, privately and publicly, will often be news. You live in a glass house. Avoid over-publicizing minor problems.
- Don't give quick answers when you are not sure of the real answer. It may be embarrassing later on.

Some of the mayor's leadership roles

Ceremonial role

The mayor's participation in local ceremonial events is a never-ending responsibility. On a daily basis, the mayor is expected to cut ribbons at ceremonies to open new businesses, break ground for construction of new city facilities, and regularly appear at fairs, parades, and other community celebrations. The mayor also issues proclamations for a variety of purposes. As featured speaker before professional clubs, school assemblies, and neighborhood groups, the mayor can expect to be interviewed, photographed, and otherwise placed on extensive public display by the media.

Intergovernmental relations

Your city does not operate in a vacuum. Cities must work within a complex intergovernmental system. Keep in contact and cooperate with your federal, state, county, and school officials. Get to know the officials of neighboring and similarly sized cities.

Mayors take the lead in representing their local government to those from outside the community who are interested in joint ventures – including other local governments, regional organizations, and federal and state government representatives. In this area, mayors promote a favorable image of their local government and pursue resources that will benefit the community.

Public relations

Mayors inform the public, the media, and staff about issues affecting the community. This role is critical in building public support and facilitating effective decision-making by the council.

Working with residents

The most important trait a new official can cultivate is the simple ability to listen. You will quickly find that when frustrated city residents call on you to complain, they do not come to listen – they come to talk. So let them.

Make an effort to keep your constituents informed and encourage participation. Expect and respect complaints. Make sure your city has a way to effectively deal with them.

Sitting in your position of new responsibility does not allow you to forget the people who elected you to office. They expect you to keep them informed and to give them an opportunity to express themselves. If you do this, you will surely increase your chances for success as a public official.

Dealing with the media

The media is your best contact with the public – it informs the community about what is happening and why. A good working relationship is mutually beneficial to both you and the media. Through the media, you have the opportunity to comment publicly on local issues and inform residents of city activities. If you work hard to cultivate that relationship, you can ensure that the media have all the facts and provide accurate, fair coverage of city issues.

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Practical advice

Helpful pointers from other Washington mayors.

Leadership ...

- **Lead by example.** Be honest, consistent, and flexible. Don't play games.
- **Use common sense.** If your heart, mind, and gut agree, then go for it.
- **Don't get stampeded into action by the strong demands of special interest groups.** Your job is to find the entire community's long-term public interest, and you may be hearing from a vocal minority.
- **Be clear on what you stand for.** List ten things you believe in.
- **A new mayor should have goals.** Make a list of things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
- **Sometimes we underestimate the potential impact of a mayor's leadership.** Use the dignity of your office to help the community get past contentious issues.
- **There is a tremendous amount of discomfort in making very public decisions.** Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
- **Know that you won't be able to satisfy everyone.** If you try, you won't be able to demonstrate leadership. Listen fairly, listen thoughtfully, and then do what's right.
- **Most of the easy decisions got made a long time ago.** Many decisions that need to be made can be very painful – but you can't solve those big problems without pain.
- **See if you can develop a vision of what your city should look like in the future, and work with others to that end.**

"We're busy electing barometers, when what we really need are compasses."

– Author unknown

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Chapter 5

The mayor as chief executive

Most people understand that, except under a council-manager form of government, the mayor is the chief executive of the city. When there is a serious emergency, such as a flood, residents properly assume that it is the mayor who has the authority to take charge. Unfortunately, it is also assumed by some mayors that their power is almost supreme, even in the absence of an emergency.

Though the mayor has executive authority in a mayor-council city, that authority is defined by state law and must be exercised in a manner consistent with policy decisions made by the city council. There are statutory limitations both on what you can do and how you can do certain things. Appendix 1 lists the specific statutes that grant powers and responsibilities to the mayor. This chapter provides an overview of your chief executive responsibilities.

Administrative/policymaker distinction

Again, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The distinction sounds simple, but it can cause confusion and animosity.

Though a mayor does not set policy, as the elected chief executive it is certainly appropriate for the mayor to bring policy options and recommendations to the council. That is part of the leadership role of the mayor. That leadership role is particularly evident in the budget process, where the mayor submits a preliminary budget to the council as a proposed guideline for city priorities.

So, who actually runs the city?

In many of the smaller towns and cities in Washington, the city clerk is the person at city hall who does a lot of the day-to-day administration of the city. The clerk's duties are established by state statutes and city ordinances – this person is typically in charge of administration when the mayor is not at city hall.

In many cities, the mayor is employed full-time in another job and does not have the time to be at city hall taking care of administrative details. The mayor's salary in most municipalities clearly indicates that the job is not full-time.

As cities grow and the complexities of city administration become more difficult for a part-time mayor and a city clerk to handle, some cities choose to create a new position titled "administrative assistant," "city administrator," or "executive assistant" to help with city administration, under the direction of the mayor. The individual in such a position is generally appointed by the mayor and performs tasks within the statutory authority of the mayor. While the council can establish the qualifications and the duties of the position, it cannot take powers delegated by statute to the mayor and give those to the city administrator.

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Only about a dozen Washington cities currently have full-time mayors, though a growing number of cities have individuals who work full-time as city administrators for the mayor, as described above.

Some cities have chosen to change to a council-manager form of government when there is a consensus that a professional administrator could better handle the city administration. The decision of whether a city should have a professional city administrator or city manager is complex, involving politics, finances, and the views of the people.

Responding to resident complaints

Residents often contact the mayor when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Work with staff to resolve problems, keeping in mind that you are not the individual with all the answers.

For instance, as land use planning becomes more complex, don't be tempted to give a quick answer or promise to a landowner before checking with the city's planning department or reviewing the city's development regulations. Consider referring callers to the staff person with the expertise, then follow up to make sure the matter has been handled appropriately. If a matter is normally handled by the police department, direct the complainant to the police department.

City staff will appreciate your involvement if you make the proper referrals, and if you are careful to not make promises that are inconsistent with city procedures or policies.

If word gets out that complaining to the mayor gets a more prompt response to minor nuisance problems, you are bound to receive a lot of those calls. Did the people elect you to solve the barking-dog problem, or did they elect you to make sure that city staff properly handle these minor issues?

Relationship with the city attorney

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities, the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's attorney, particularly if the city attorney generally supports the mayor's position in situations where the answer is unclear.

A mayor cannot prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor may feel that questions to the city attorney should be channeled through the mayor, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately it is up to the council to establish procedures on how to provide city attorney services.

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Make your attorney's job easier

Inform the city attorney ahead of time when you see a legal issue brewing. No attorney wants to be asked a complex question at a council meeting without prior warning. Don't be surprised if your attorney tells you they need to research the issue or discuss it with you (and council) in an executive session.

Instead of asking the city attorney without warning: "Can we do _____?", ask: "How can we do _____?" and give your attorney time to research the issue. City attorneys often get frustrated by frequently informing the mayor and council that they cannot do something. They would rather use their creativity to come up with alternate ways to legally accomplish an objective.

The attorneys at MRSC are another good source of legal expertise, but they are not a substitute for your city attorney, and your conversations with them are not subject to attorney-client privilege. Please keep in mind that their consultation is based on the facts you provide. Sometimes there are special factors involved, perhaps unique to your city. That is why MRSC will always advise you to review an issue with your city attorney.

Public records disclosure

You are legally obligated to disclose city documents to the public upon request. For example, when there is a request from the public to disclose a city document, the city must respond to the disclosure request in writing within five working days. The short turnaround time requires that city staff have clear guidelines for how to process these requests. Most cities have adopted public disclosure procedures. If your city has not yet adopted public disclosure policies, consider making that recommendation to the council.

Many city records are exempt from disclosure, and there are even statutes that prohibit disclosure of some records. (See Appendix 3, Public records disclosure, for more details on what is disclosable.) The Open Government Trainings Act requires elected officials to receive training on public records, the Open Public Meetings Act (OPMA), and records retention within 90 days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime, and they meet the Open Government Trainings Act requirement.

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Emergency management

In mayor-council cities, the mayor is statutorily in charge when there is an emergency or disaster. RCW 38.52 contains the state statutes requiring that every city and town adopt an emergency management plan. Some cities choose to join with other cities or the county to create a joint emergency management agency. Together they select a director and grant them extensive authority to cope with an emergency.

The city clerk can provide you with a copy of your city's emergency management plan. Read it. Keep a copy readily available in both your office and at home. When a disaster happens, you may need to coordinate the emergency response. Depending on the emergency type and its duration, you may want to seek consultation or approval of the council for certain actions, if feasible. (See Appendix 1, Overview of statutes, for further discussion of emergency management.)

And remember that while you have operational control during an emergency, the council always has final control of the city's budget. It is a good practice to keep them informed and get them to ratify purchasing and other budget-related decisions as soon as practicable during an emergency.

Human resources management

The statutes generally give the mayor or city manager, as chief executive, broad authority to hire and fire employees. (See Appendix 1, Overview of statutes.) Realize, however, that employee lawsuits can be one of your largest areas of potential liability. There are legal limitations on the actions you take in hiring, discipline, and discharge:

- **State and federal laws, court decisions** – Laws relating to anti-discrimination, overtime compensation, safety, sexual harassment, and many others.
- **The city's personnel policies** – Policies passed either as an ordinance or adopted as administrative policies.
- **Civil service** – Except for very small cities, most police and fire employees are protected by civil service. Some charter cities also provide civil service coverage for other city employees. Civil service governs hiring processes and provides hearings for disciplinary actions. Your actions may be subject to appeal to the local civil service commission (RCW 41.08 and 41.12).
- **Union contracts** – The terms of the labor contract prevail over other local regulations, including civil service rules and personnel rules. In many contracts, a grievance procedure provides for disciplinary appeals to an outside arbitrator.

In any disciplinary action –

hasten slowly.

Before you jump…

Prior to taking any serious disciplinary action, consult with your attorney. Your liability insurance carrier may also provide some preventative legal assistance.

Another tip is to have good and consistent personnel policies. Current and clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

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Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under the state Collective Bargaining Act and have joined statewide unions or have formed local associations (RCW 41.56).

In particular, most police and fire departments are well-organized. Except for very small cities, police and fire are also subject to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations.

Labor relations advice

- Know the terms of your labor contracts.
- You can't change wages, hours or working conditions without bargaining these issues with the union. This means you can't unilaterally implement a change in benefits, for example, without risking an unfair labor practice.
- You may or may not choose to be on the bargaining team. Be aware of the disadvantages – the process is very time-consuming and may affect your day-to-day relationships with employees. Because city employees are often your constituents, you may have unions putting political pressure on you. Some cities hire professional consultants to bargain on behalf of management.

Practical advice

Helpful pointers from other Washington mayors.

Working with staff ...

- **Hiring good people is what it's all about.** Get the best that you can. Take your time. It can be incredibly costly to undo a bad hiring decision.
- **Get to know staff.** Learn what they do.
- **Listen to your staff.** Give them as much responsibility as they can handle. Task your employees with the responsibility to create new ideas and better ways to get stuff done.
- **Keep perspective.** The people who helped get you elected may not always be the right people to help you run the city.
- **Say thank you!** Let folks know how much you appreciate them and give credit where credit is due.
- **Treat staff with respect.** They are a very valuable asset.
- **Be consistent.** Treat everyone the same.
- **Formalize your city's human resources rules and regulations.** Make sure the rules are clear.
- **Keep your employees informed.** Stay in touch with decision-makers on the front line and those who are in frequent contact with the people.
- **Budget money for and encourage your staff to attend professional meetings and seminars.** These learning and networking opportunities can be invaluable to your city.

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Chapter 6

The job of a councilmember

The principal job of a city or town council is to set policy. A policy is a course of action for a community. Policymaking often takes the form of passing ordinances or resolutions. After policy decisions are made by the legislative body, others perform the administrative task of implementing the policies. The distinction between formulation and implementation may not always be clear, necessitating open communication between legislators and administrators.

Adopting policy

The council does not make policy in a vacuum. Councils rely on ideas from many sources, including the council staff, community groups, advisory committees, chambers of commerce, and others. It is the council's responsibility to consider the merits of each idea and then approve, modify, or reject them. In doing so, councilmembers analyze community needs, program alternatives, and available resources. The decision often takes the form of an ordinance or resolution, although it may take the form of a rule, regulation, motion, or order. The budget and comprehensive plan are powerful policy tools that are adopted by ordinance.

So, who actually runs the city?

It is important to recognize that it is not the role of the councilmember to administer city affairs. The council sets policy, but it is either the mayor (in mayor-council cities) or the city manager (in council-manager cities) who actually implements the policies. This means that it is not the role of the councilmember to supervise city employees on-the-job or become involved in the day-to-day administration of city affairs. This can be a source of conflict between the executive and legislative branches of city government.

Responding to constituent complaints

Residents often contact a councilmember when they have a problem, whether it involves a land use matter, a barking dog, or a pothole. Don't hesitate to send them to the appropriate city staff person for resolution of their problems. Keep in mind that you lack the authority to take action in administrative matters.

Relationship with the city attorney

In most cities, the mayor appoints the city attorney, whether that position is full-time or part-time. In some cities the council takes an active role to arrange for the provision of legal services through a contract. Regardless of how the position is established, remember that although the mayor or city manager typically has more contact with the city attorney than the councilmembers or city staff, the city attorney's job is to advise all city officials. Sometimes councilmembers feel that the city attorney is the mayor's or manager's attorney, particularly if the city attorney generally supports the mayor's or manager's position in situations where the answer is unclear.

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Question & answers

Q. What is the role of the city council regarding employee discipline, and what input can the council have concerning performance appraisals of employees?

A. Though the council may be concerned about employee discipline and how certain employees are performing their duties, the council should not be involved in any individual situations. While the council can establish personnel policies and voice their concerns to the mayor, it is solely the mayor's job to discipline and supervise city employees, including conducting performance evaluations.

Q. Is the mayor or city manager required to inform councilmembers prior to terminating or disciplining a city employee?

A. No. However, when a particular termination or discipline is likely to be controversial, the mayor may want to notify the council and explain the decision in an executive session. Disciplinary and termination decisions should be reviewed with the city attorney first. The mayor and councilmembers should be careful to not discuss specific cases outside of an executive session.

Neither the mayor nor the city manager can prohibit the council from accessing the city attorney for advice. For financial reasons, the mayor or manager may feel that questions to the city attorney should be channeled through the executive's office, to avoid possible duplication and to make sure that the questions are presented clearly. Ultimately, it is up to the council to establish procedures on how to provide city attorney services.

Some smaller cities try to minimize legal service fees by having the city attorney skip regular council meetings. That can be thrifty, but shortsighted, particularly when the council is dealing with controversial matters such as land development, or complex procedural issues such as LIDs.

Human resources management

The statutes generally give the mayor or city manager, as chief executive, the broad authority to hire and fire employees.

The city council, however, determines the number of employees that can be hired and those employees' duties. The council establishes salaries and other forms of compensation paid to city workers. The council may also establish job qualifications.

One piece of advice is to have good, consistent personnel policies. Up-to-date, clearly written policies help avoid lawsuits, promote consistency, and contribute to employee morale.

Labor relations

Unions have a significant presence in Washington cities. Most city employees have the right to organize under state law and have joined statewide unions or formed local associations. The city must negotiate labor contracts with these unions over wages, hours and working conditions.

In particular, most police and fire departments are unionized. Except for very small cities, police and fire unions have access to interest arbitration when an impasse in bargaining occurs. This can create a unique dynamic in police and fire negotiations, given the potential for an outside arbitrator to make decisions regarding wages, benefits and contract language.

Open government laws

Compliance with public disclosure and open meetings builds trust with your community. The Open Government Trainings Act requires elected officials to receive training on public disclosure, the Open Public Meetings Act (OPMA), and records retention within 90 days of taking office and every four years thereafter.

In partnership with MRSC, AWC provides the courses for free online. The eLearnings are available to watch anytime and they meet the Open Government Trainings Act requirement.

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Local laws – ordinances and resolutions

How does the council adopt policy? Typically, a council will adopt policy by passing ordinances and resolutions at council meetings.

Difference between ordinances and resolutions

An ordinance is a local law of a municipal corporation, prescribing general rules of conduct. Ordinances are used for a variety of purposes, including administrative actions such as establishing offices and setting salaries, or they may be used for actions that control the conduct of the public. An ordinance is a legislative enactment, within its sphere, as much as an act of the state Legislature.

A resolution, on the other hand, is typically an act that is less solemn or formal than an ordinance. Resolutions reflect the council's expression of policy and sometimes provide direction to the administration and staff. Legislation must be enacted via ordinance. Deciding what constitutes legislation may require reference to case law, but the general guiding principle is that "[a]ctions relating to subjects of a permanent and general character are usually regarded as legislative, and those providing for subjects of a temporary and special character are regarded as administrative..." (*Durocher v. King County, 80 Wn.2d 139, 153, 492 P.2d 547, 1972*).

When deciding whether to use an ordinance or a resolution, first refer to the city charter and state law (RCW). Some state statutes clearly define which action is needed, while others leave it to the discretion of the legislative body. If the charter and the code are silent as to the mode of decision-making, and the action is not "legislation," then either a resolution or an ordinance may be used.

Rules for adopting ordinances

The state statutes for each class of municipality do contain some procedural requirements which govern the ordinance adoption. However, these procedural requirements are generally not complicated and do not require an elaborate adoption procedure. For a comprehensive discussion of adoption procedures, including information on requirements for signatures on ordinances and publication of ordinances, see MRSC *Local Ordinances for Washington Cities and Counties*.

Many cities and towns have adopted local rules of procedure that relate to the adoption of ordinances, and these, of course, must be followed. For example, although the state statutes do not require that an ordinance be read more than once (in most circumstances) prior to adoption, many local rules of procedure do contain such a requirement. Therefore, it is important that councilmembers familiarize themselves with the local rules of procedure as well as the state statutory requirements for the adoption of ordinances.

An *ordinance* is a local law of the city.

A *resolution* is typically an act that is less formal than an ordinance.

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Practical advice

Helpful pointers from other elected officials.

Leadership ...

- **Lead by example.** Be honest, consistent, flexible. Don't play games.
- **Use common sense.**
- **Don't be stampeded.** You may receive strong demands from special interest groups. Your job is to find the long-term public interest of the entire community.
- **Be clear on what you stand for.** List 10 things you believe in.
- **A new councilmember should have goals.** These are things you want to accomplish. But don't act rashly and assume that only you know the best way to accomplish things. Every issue will benefit from additional discussion. Your perceptions may change.
- **Use your role as a leader.** The dignity of your office can help the community get past contentious issues.
- **It can be uncomfortable to make very public decisions.** Sometimes the decisions feel like the end of the earth. It's easy to fear the political consequences. But it is important to look a little more long-term in perspective, weigh everything, and reach good decisions.
- **Know that you can't satisfy everyone.** Listen fairly and thoughtfully, and then do what's right.

Working with staff ...

- **Get to know staff and what they do.**
- **Say thank you!** Let folks know how much you appreciate them and give credit where credit is due.
- **Treat staff with respect** – they are a very valuable asset.
- **Be consistent.** Treat everyone the same.
- **Budget money for and encourage your staff to attend professional meetings and seminars.** These learning and networking opportunities can be invaluable to your city.

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Chapter 7

Legislative advocacy

Many city officials don't realize just how much influence they have to help make changes at the state level. You are one of your legislator's constituents, and the experiences and city stories you share can yield positive results. Building good relationships and having strong communication with your legislators is key to being a good advocate for your city.

Use the time between legislative sessions (interim) to meet with your legislators. During the legislative session, you are lucky to have 15 minutes for a meeting, yet this is when most people try to talk to their legislators. Think differently! Schedule meetings with your legislator throughout the year, particularly during the interim. Once you have a meeting with your legislator, it's important that you make the most of it. Come prepared and consider the following:

- Brief legislators about your challenges and opportunities.
- Ask for monthly meetings or calls with your city, or a group of cities.
- Tell stories about real impacts on your constituents.
- Keep materials clear and concise.
- Ask for clear commitments to work on your issues.
- Connect with legislative assistants. Be clear about when you are representing your city's position and when you are speaking as an individual.

Develop a legislative agenda

Tell your legislators what you need from them. You can do this simply and effectively by developing and sharing your city's legislative agenda. City councils can vote to take official positions on state issues that affect the city. A legislative agenda is a good way to get your legislator's attention and tell them your priorities. When you talk to your legislators, be clear when you are communicating your personal opinion as opposed to the city's official position as voted on by you and your colleagues,

- Keep it short and simple.
- Get your city council to adopt it in the fall, before session begins.
- Include capital needs along with policy priorities.
- Incorporate AWC's Legislative Priorities into your agenda.
- Share it with your residents. Post it on your city's website, put it in your newsletters, and insert it into utility bills.
- Work with your local media for coverage.
- Share it with your legislators as soon as possible – it takes time to develop legislation and generate support.

Additional resources:

City Action Days (every winter in Olympia), AWC

Legislative Bulletin, delivered weekly during the legislative session and monthly the rest of the year, AWC

Strong cities advocacy guide, AWC

Public Agency Lobbying Handbook, PDC

Public Disclosure Commission

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Communicate with your constituents

If you aren't communicating with your constituents about how your legislative agenda is faring, then who is? You and your legislators have the same constituents. Make sure your shared constituents know how decisions made in Olympia affect them at home. This is a powerful way to create legislator accountability.

- It is your responsibility to tell the public how their legislators are supporting your community. No one else will do this.
- Communicate with your constituents through city council meetings, public access TV, social media, and newsletters.
- Use your influence with community groups to make sure they know the full story.

If you lobby, you may need to report to the PDC

Cities that conduct lobbying activities either through a contract lobbyist, directly with in-house staff, or with city councilmembers may need to report to the Public Disclosure Commission (PDC). Those that hire a contract lobbyist must file a report. Cities that have in-house staff who spend more than four days a quarter directly lobbying the Legislature may need to complete a report. For more information on reporting requirements and how to file, visit the PDC's website. Cities that fail to comply with reporting requirements on lobbying activities may be subject to penalties from the PDC.

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Chapter 8

Budget basics

The budget is one of the city's strongest policymaking tools. Spending guidelines reflect numerous policy decisions and priorities. The budget message can give a clear view of city policy on many issues. It describes in narrative form significant items in the budget, financial trends, and the policy implications.

Setting policy through the budget is a continuous, year-long process. It involves setting goals and establishing priorities. Public participation is critical to the budget process, and is required by law, because of the many policy decisions involved. Once a budget is adopted, the mayor or city manager is responsible for carrying out the budget and councilmembers are responsible for monitoring program progress through periodic reports from staff and from the community. If programs are not effectively implementing policy decisions, revisions can be made.

The three types of budgets:

- **Operating budget** – These funds are for delivering services like police, fire, parks and library. The operating budget enables you to set policy. When most people think about their city's budget, they're referring to the operating budget. The operating budget is financed from the city's ongoing general revenue sources.
- **Utility services** – These city-provided services are separately funded through user fees and taxes. Most cities provide sewer/water, many provide garbage and a few cities provide electricity, natural gas, and/or transit.
- **Capital budget** – This budget determines what capital improvements will be bought or built over several years, and how they will be financed.

The legal document

State law governs municipal budgets. Although no uniform budget document exists for cities, cities must use uniform revenue and expenditure categories specified by the state auditor (known as the BARS system). Cities can use either annual or biennial budgets, but most use annual.

In Washington, budgets must be balanced – anticipated revenues must equal forecasted expenditures. Unexpected revenues can be appropriated by a supplemental budget modification or can be allocated to reserve funds or to the following year's beginning balance. Expenditures which exceed revenues can be made only by the council transferring funds from reserve accounts (subject to council approval) or by issuing interest bearing warrants.

In Washington, budgets must be balanced – anticipated revenues must equal forecasted expenditures.

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Additional resources:

Budget Suggestions, MRSC

Budgeting basics eLearning, AWC

A Revenue Guide for Washington Cities and Towns, MRSC

Center for Government Innovation, Washington State Auditor's Office

Financial Intelligence Tool, Washington State Auditor's Office

Budgeting methods

Cities and towns typically use one of three budgeting methods:

- **Line-item or incremental budgets** are used by most local governments. The budgets are prepared by adding proposed spending increases to current expenditure levels. It lists how much money will be spent on every item in a department. While this is the easiest budget method, it makes it difficult to analyze service delivery.
- **Priority-based budgeting/Program budgets** focus on specific services or outputs and involve allocating resources to obtain desired goals. This approach makes it easier to set priorities and select among competing programs and service alternatives, but it is more staff-intensive.
- **Zero-base budgeting** is a nontraditional budget process in which "decision packages" are prepared for various levels of service for each activity. Programs and activities are reviewed and ranked according to how they meet the city's goals. The lowest-ranking programs may be reduced or discontinued. Zero-base budgeting requires a high level of analysis and preparation.

The budget calendar

State law defines a city budget calendar, which specifies the timetable for completing the various steps leading to the budget's adoption. Many cities supplement the calendar with increased budget preparation during the summer, finance committee meetings during the fall, and ongoing budget reviews throughout the year.

Although many cities start the process earlier, the law requires department heads to prepare expenditure estimates for the coming year no later than the second Monday in September. The process ends when the final budget is adopted on or before December 31. Between these two dates, the clerk or other staff prepares the proposed preliminary budget for the mayor, the mayor or staff drafts the proposed budget and presents it to the council, and public hearings are held. The complete budget calendar, as spelled out in the statutes, along with the dates for the current year, is published each year in MRSC's *Budget Suggestions*.

The mayor/city manager's role

The state statutes provide details concerning the mayor/city manager's responsibility to prepare the preliminary budget and a "budget message." Their authority to make transfers within individual funds is also spelled out in the statutes. (See Appendix 1.)

The council's role

The council's role starts with establishing strategic goals and priorities to provide a framework for the budget. The council then discusses and adopts the final budget, and amends the budget as needed. The council also sets city tax rates and fees.

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Putting the budget together

Let's look at the actual budget process. It is definitely a team effort involving the mayor or city manager, council, and staff and reflecting the community's priorities.

Setting policy

The council sets public policy in two major ways: by enacting ordinances during the year, and by establishing budgetary (taxing and spending) policies. Your city administration influences policy through budget implementation and recommendations to the council as to what is needed. The city's strategic goals also guide budget priorities.

Estimating expenditures

Department heads prepare estimates based upon a projection of current trends, a forecast of the effect of new programs, and an estimate of what is needed to pay remaining bills.

Reviewing estimates

The mayor or city manager (in a council-manager city) reviews the department requests, taking into account policy objectives and priorities for new or expanded programs. It's a give-and-take process, sometimes with department heads lobbying for their program or service. What develops is a preliminary budget.

Estimating revenues

While expenditures are being estimated, the city's finance officer looks at revenues. Two key questions are raised: What factors impact future revenue flows, and what are the estimated level of revenues for the upcoming budget period? Once these questions are answered, revenue estimates should not be changed to accommodate additional spending desires.

Forecasting budgets

Although it's an optional step, forecasting your projected revenues and expenditures for up to five years helps determine whether your city can maintain its service levels. This long-term analysis helps pinpoint whether any corrective actions are necessary.

Preparing the document

The mayor/staff prepares the draft budget for council review. The actual budget document typically contains four parts: a budget message; a summary schedule of revenues and expenditures; detailed revenue elements; and expenditure details, with dollar and workload implications.

Adopting the budget

The mayor or city manager presents the budget to the council and the public for review and adoption. Some cities use a budget committee for review. Hearings are held with department heads and with the public to review expenditure requests. Once the hearings are completed, a budget ordinance is enacted. The ordinance authorizes funding specific expenditures with specific resources.

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Budget do's & don'ts

Do:

- Find good basic training. AWC offers the Municipal Budgeting & Fiscal Management workshop annually.
- Evaluate materials and data carefully before you speak.
- Show your appreciation for staff. Respect their experience.
- Explore creative ways to meet your city's needs.

Don't:

- Expect to be an instant expert.
- Drown in details.
- Criticize previous budgets until you know all the facts and can correctly interpret them.
- Try to immediately change traditional budget practices.

Implementing the budget

The mayor/city manager's job is to implement the budget adopted by the council and to provide the council with periodic reports that show a comparison of accrued revenues and expenditures to the budget projections and appropriations. The law also requires the city to present a report of remaining expectation and unexpended balance for each appropriation to the council on a quarterly basis, however depending upon the financial condition of the city, it may be appropriate to provide a report more frequently. It is important to carefully monitor these budget results, which may be a function of the mayor's office.

State audit

Each city is audited by the Washington State Auditor's Office (SAO), and the audit includes an assessment of the internal control procedures over this monitoring routine. The financial condition of each of the city's individual funds should be reviewed in a documented procedure that will provide SAO with the information needed for this audit assessment.

In particular, the auditor's office reviews budget adjustments and strategies to resolve shortfalls and unanticipated expenses. Documented communications between the mayor's office and the council will demonstrate these strategies and assist with the auditor's evaluation of financial condition and internal controls over the implementation and monitoring of the budget. A copy of the report should be on file in your city's administrative office and are also available online (sao.wa.gov).

An inside look

Now that you know how the budget works, it is important to understand what the budget is – and what it is not.

The budget:

- Expresses your community's priorities.
- Works as a plan to identify resources and expenditure flows.
- Operates an annual work program by identifying objectives, guiding program management, and evaluating existing expenditures.
- Responds to change. The budget process is dynamic – it must be flexible to meet public needs, keep up with technology, and adjust to financial circumstances.

But the budget can't do it all. It will not:

- Be precisely accurate. The budget relies on estimates based on forecasts.
- Create efficiency. The budget is a resource allocation plan. It can't overcome obstacles in your management or staff structure.
- Establish public policy. Public policy is established through careful discussion before the budget is prepared.
- Make everyone happy. There will be winners and losers!

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Chapter 9

Resolving and preventing mayor-council conflict

It is essential that mayors and councilmembers understand their roles and how they relate to each other and staff. Many conflicts in city governments happen due to role confusion, resulting in overstepping the boundaries between the respective roles.

Although the boundaries are not always clear, the basic roles of the mayor and council are derived from the basic structure of city government, whether yours is the mayor-council or council-manager form. There is some variation in the powers and duties of mayors and councils between classes of cities, so be aware of the specific rules applicable to your class of city.

Separation of powers

Like the federal and state governments, a city government's powers are distributed among three separate branches: legislative, executive, and judicial.

- The city council is similar to the state Legislature or Congress.
- The mayor or manager, like the governor and the president, heads the executive branch.
- The municipal court (or the district court by contract) exercises judicial functions, although in a more limited way than the state or federal courts.

Under the "separation of powers doctrine," each of the three branches exercises certain defined powers, free from unreasonable interference by the others; yet all three branches interact with each other as part of a "checks and balances" system. The powers of these branches in city government are defined for the most part by state statute.

The mayor or city manager's authority

As the chief executive and administrative officer of the city, the mayor or city manager is in charge of carrying out the policies set by the council and seeing that local laws are enforced. The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees. The mayor or city manager oversees the hiring and firing of all appointed officers and employees, subject to civil laws, where applicable. Except for those in towns, councils have some authority to require confirmation of the appointment of certain officials. Councils may not, however, require confirmation of firings by the mayor or city manager.

The mayor or city manager is basically in charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees.

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In general, the mayor or city manager also has the authority to:

- Enforce contracts.
- Bring lawsuits, with council approval.
- Preside over council meetings and, in some classes of cities, exercise some tie-breaking authority with respect to council votes and veto authority over ordinances.
- Call special meetings of the council.
- Prepare a proposed budget.
- Report to the council on the financial and other affairs and needs of the city.
- Approve or disapprove all official bonds and contractor's bonds.
- The mayor performs as ceremonial head of the city.

Consistent with the separation of powers doctrine, the council is not authorized to interfere with the mayor's administration of city government. Councilmembers may not give orders to department heads or to other city employees. To do its job, however, the council needs information on how the city is operating. The mayor, either directly or through other city staff, must provide that information and should do so in a timely and useful fashion.

Council powers

In general, it is the council's role to adopt policies for the city and it is the mayor's role to administer or carry out those policies. The council, being legislative, has the power to enact laws and policies, consistent with state law, usually through the enactment of ordinances and resolutions. The council also has specific authority to:

- Enact a city budget.
- Define the powers, functions, and duties of city officers and employees.
- Fix the compensation of officers and employees.
- Establish the working conditions of officers and employees.
- Maintain retirement and pension systems.
- Impose fines and penalties for violation of city ordinances.
- Enter into contracts.
- Regulate the acquisition, sale, ownership, and other disposition of real property.
- Provide governmental, recreational, educational, cultural, and social services.
- Impose taxes, if not prohibited by state law.
- Cause the city to own and operate utilities.
- Approve claims against the city.
- Grant franchises for the use of public ways.
- License, for the purpose of revenue and regulation, most any type of business.

In addition, the council is authorized to enact rules governing its procedures, including for public meetings and hearings.

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The blurred line between policy and administration

Of course, things do not always run smoothly between the council and the city administration, and the line between policy and administration is sometimes not very clear.

One frequent source of conflict is personnel matters. The council may not like a mayor or city manager's appointment to a particular position, or it may be dissatisfied with the performance of certain officers or employees. An employee may complain to and seek relief from the council about some aspect of employment. On the other hand, the executive may believe that certain personnel policies interfere with their supervision of employees and hiring and firing authority.

The mayor or city manager may direct that all communications with city staff go through the mayor's office. The council, in response, may feel that the mayor is unlawfully restricting its access to city personnel for information purposes.

Whose role is it?

The remedy for some of these situations may be to review the respective roles of the mayor and the council and to understand the limitations of their respective authorities. For example, if the council is not happy with a mayoral appointment, there may be nothing the council can do directly within the bounds of its authority. However, if it has the authority to confirm a particular appointment, it can reject the appointee and force the mayor to choose another. If the council does not have confirmation authority, it can express its dissatisfaction to the mayor, but it can do nothing else with respect to that particular appointment.

The council may, however, provide for a detailed personnel system that establishes specific qualifications for positions, requiring publication and public posting of job opening announcements. Moreover, the mayor or city manager, at least in code cities, is required by statute to make appointments "on the basis of ability and training or experience."

Similarly, if the council feels that an officer or employee is performing poorly and should be disciplined or fired, it can say so to the mayor or city manager, but it has no power to do anything else. Although it controls the salaries paid to city officers and employees, it may not lower a salary with the purpose of causing the person holding that position to quit.

A rule to follow is that the council (and the mayor) may not do indirectly what it cannot do directly.

Council and staff communication

On the issue of communication between the council and city officers and employees, the mayor or city manager may not prevent councilmembers from gaining information, although they could reasonably regulate the process by which requests or questions are made. If councilmember inquiries of city employees are interpreted as harassing or unreasonable and may take them away from their duties, it may be necessary for the mayor or city manager to require those inquiries to be channeled through the mayor's or a department head's office, if that can be done without unduly encumbering council access to information.

"The most important single ingredient in the formula of success is knowing how to get along with people."

– Franklin D. Roosevelt

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Additional resources:

Knowing the Territory - Basic Legal Guidelines for Washington City, County, and Special District Officials, MRSC

Conflict in the finance arena

Finance and budgets is another fertile area for conflict. For example, the mayor or city manager may decide not to take full advantage of the budget authorized by the council. The council may authorize a certain position at a certain salary, and the executive may decide either not to fill the position or may do so at half time and half salary. The mayor or city manager may cite financial emergencies, such as revenues falling short of projections, and may conclude that the city cannot afford someone filling this position full time. The council, on the other hand, may not agree that the conditions warrant such action or may determine that a different cost-saving measure is appropriate and should be instituted.

Resolution of this type of issue may prove particularly tricky. Although the mayor or city manager may not pay an employee less than is authorized by the council in the budget or in a separate salary ordinance, under certain financial circumstances, they may be able to partially fill a position, proportionately reducing the salary for the position. Legal authority, however, is hazy on such issues. The best strategy would be for the mayor or city manager and the council to work out a mutually agreeable accommodation.

Resolving conflicts

There are other issues that will likely arise (and that have arisen in other cities) where it is not clear who has the ultimate authority to act, the mayor or city manager or council. In these situations, the council and the city administration could draw their respective battle swords and charge; or, one or both sides could first analyze the issue, perhaps seeking counsel of the city attorney or the consultants at MRSC. Some cities have also brought in an outside facilitator to help them resolve their conflicts.

When the roles are not clearly defined in a particular situation, and the law is not clear, compromise may be in order. All sides need flexibility to meet the challenges of a well-functioning city government. If the focus is on providing good government rather than on turf wars, councilmembers, mayors, and staff can better fulfill their roles as public servants.

The municipal/district court's authority over employees

The presiding judge in municipal or district court is delegated the authority to supervise court employees and control the daily operation of the court in General Rule 29 of the Washington Court Rules (GR 29). Separation of powers issues can arise when the executive branch (i.e., the mayor) desires to terminate, appoint or otherwise discipline a court employee. These types of actions are not within the authority of the executive branch because RCW 3.50.080 and GR 29 reserve this authority for the presiding judge. The city council does retain the authority to set salaries and establish benefits for court employees.

Note however, that courts must engage in good faith collective bargaining with court employees. The Washington Supreme Court has determined that the requirement to bargain does not take away the court's inherent power to control the daily operation of the court and supervise court employees. *Washington State Council of County and City Employees v. Hahn, 151 Wn. 2d 163 (2004).*

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Questions & answers

Q. If the mayor is out of town on an extended absence, should the mayor still be paid the regular salary?

A. Yes, if the salary is paid monthly and is not based on attendance at council meetings. It would be possible for a city council to pass an ordinance suspending salaries when elected officials are absent on extended trips, but the ordinance would only apply to officials elected after the effective date of the ordinance.

Q. Can councilmembers contact the city attorney directly, or do they have to go through the mayor?

A. Councilmembers have the right to seek advice directly from the city attorney. However, for practical reasons, some cities have established procedures whereby the questions to the city attorney are routinely funneled through the mayor or city manager, or the executive's permission needs to be obtained prior to calling the city attorney.

Q. Does the council have the authority to declare certain police cars to be surplus, and then sell them, even if the mayor/city manager disagrees?

A. Yes, because the decision to surplus major pieces of equipment is a policy decision, not an administrative decision.

Q. Can the city council fire an employee?

A. No, termination decisions are the sole responsibility of the mayor/city manager, though a mayor's decision to terminate a civil service employee is generally appealable to the local civil service commission. Union employees may also be able to appeal such decisions to an arbitrator, if the labor contract provides for this.

Q. Can the mayor (or city manager) of a code city authorize the purchase of a computer over the city council's objection?

A. The city council has final authority over budgeting and contracting. If the executive would like to purchase a computer for use by a particular staff member, council approval is still required. The council can delegate purchasing authority to the mayor and administrative staff. Routine purchases which are clearly within the budget limits should be administrative decisions.

Q. May the mayor (or city manager) refuse to carry out the directives of the council?

A. In general, no. The executive's job is to carry out the policies enacted by the council. If a mayor believes that the city council is acting beyond its authority, or has adopted a policy which violates a statute or constitutional provision, the city attorney should be asked to provide a detailed opinion to guide the officials.

Q. In the strong-mayor form of government, can the city establish a city administrator position and transfer some of the mayor's duties to that person?

A. Though the council can establish the position and define the responsibilities of the job, the council has no authority to take powers from the mayor which have been granted to the mayor by state statutes. All staff work under the supervision of the mayor, and any city administrator is ultimately an assistant to the mayor.

Q. If the mayor or city manager believes that it is crucial for certain city staff to attend training sessions held outside the city, can the council prohibit such trainings?

A. Because the council controls the budget, sets policy and approves contracts, the council could prohibit expenditures for such trainings. The executive would need to convince the council that the training is a priority, perhaps proposing other spending cuts which would free up money for the training.

Practical advice

Helpful pointers from other elected officials.

Relationships within council ...

- **Appreciate each councilmember's special skills.** Get to know them personally. Find out what they think is important. Ask for their opinion.
- **Keep disagreements from getting too personal.** As one councilmember said, "If we can't sit up here and argue and then go out with the same people and have a cup of coffee, then we have no business being on the council."
- **Always be courteous to other councilmembers.** This includes new councilmembers who come on board with an agenda. Keep that door open.
- **A mayor needs to be open and honest.** Give councilmembers all the background information they need on issues. Don't do things behind people's backs. Keep everyone informed.
- **Address conflict head-on.**
- **Give the council enough information to make a knowledgeable decision.** But don't overdo it so much that they feel compelled to "micromanage."
- **Laugh together.** Share thoughts and dreams, and tell stories about yourself. Bring donuts!

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Roles of the mayor and council

Policymaking & implementation

Mayor

- Keep council informed on city affairs.
- Propose policy.
- Implement policy adopted by council.
- Report back to council regarding policy implementation and possible improvements.

Council

- Listen to city residents – keep track of their concerns and wishes.
- Discuss, develop, and adopt city policies governing many aspects of city operations.

Human resources matters

Mayor

- Hire, fire, supervise, and discipline all city employees (in some cities, council confirmation of certain appointments can be required). Civil service rules and labor contracts must be followed, if applicable.
- Negotiate labor contracts (sometimes mayor is not a member of negotiating team).

Council

- Adopt personnel policies, establish positions, set wages and benefits – council should not meddle in mayor's supervision of employees or interfere with work of employees.
- Establish bargaining parameters and approve final labor contract.

City budget

Mayor

- Work with staff to develop preliminary budget.
- Lead council in process of establishing goals and priorities for the city.
- Implement budget adopted by council, provide regular financial reports, and present alternatives when council needs to deal with budget problems.

Council

- Establish goals and priorities which provide framework for budget – discuss and adopt final budget – amend budget as needed.
- Set city tax rates, to the extent permitted by statutes.
- Set utility rates and other fees as required.

Council meetings

Mayor

- Prepare agenda, preside over meetings, report to council about city administration, propose policy initiatives or changes.
- Vote on measures allowed by the statutes. Veto ordinances, as permitted by statutes.
- As presider, facilitate an orderly meeting.

Council

- Adopt council rules of procedure.
- Participate in preparation of council meeting agenda as provided in council rules.
- Discuss all policy matters and make decisions following the adopted rules.

Land use and planning

Mayor

- Supervise planning staff, who make recommendations to the planning commission and council on a broad range of planning issues.
- Supervise staff who enforce building codes and other development regulations.

Council

- Adopt and amend zoning, development regulations, and comprehensive plan after receiving input from staff, residents, planning commission, and others.
- Act in quasi-judicial capacity to decide land use issues.
- Amend planning documents as necessary.

City expenditures, contracts

Mayor

- Sign contracts, supervise contract performance, enforce contracts.

Council

- Approve contracts and all city expenditures.

Relationships with other entities

Mayor

- Represent city as official spokesman, in accordance with views or goals set by council.
- Act as official head of city for ceremonial events such as ribbon cuttings and sister-city contacts.

Council

- Decide whether city will participate in optional government organizations, provide guidance to mayor or other city representatives.
- May serve as city representative on certain intergovernmental bodies where mayor is not designated member.

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Chapter 10

Council meetings

The mayor's role in the council meeting

The mayor, as presiding officer, holds the key to an effective council meeting that runs smoothly and produces results. They not only participate in the meeting but also manage the process, the agenda items, and the people involved.

Will the meeting come to order?

As presiding officer, the duties of the mayor are to:

- Open the meeting on time and call the meeting to order.
- Announce business on the agenda in the proper sequence.
- Recognize members for motions and statements and allow audience participation at the appropriate times.
- State and vote on all legitimate questions that arise during the meeting. If a motion is out of order, the mayor should rule it out of order.
- Protect the council from frivolous or delaying motions by refusing to recognize them.
- Enforce the rules of debate, make sure that speakers limit their remarks to the item being considered, and keep order at the meeting.
- Expedite business in a way that is consistent with the rights of the members.
- Decide all questions of order.
- Respond to inquiries of members.
- Declare the meeting adjourned.

Legal requirements for meetings

The mayor should become familiar with legal meeting requirements imposed by state law. This includes knowing adoption procedures for ordinances and resolutions, when executive sessions are appropriate, and what is involved in a quasi-judicial hearing.

The city attorney can help with these matters, but if the mayor knows the basics, it saves time and avoids illegal or incomplete actions. (See Appendix 4 for more details on what is required under the Open Public Meetings Act, and Appendix 7 for guidance on the appearance of fairness doctrine.)

Council rules of procedure

It is up to every council to establish rules for the conduct of its meetings. Some councils adopt standard rules, such as Robert's Rules of Order or some other rules of parliamentary procedure; and others develop their own customized bylaws which govern how council meetings proceed. Local rules are valid so long as they don't infringe on constitutional rights or conflict with state law. (See Appendix 6 for sample council procedures.)

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Additional resources:

Robert's Rules of Order

American Institute of Parliamentarians Standard Code of Parliamentary Procedure

Mastering Council Meetings: A guidebook for elected officials and local governments
Ann Macfarlane & Andrew Estep

What is parliamentary procedure and why should you use it?

Parliamentary procedure is the set of rules or customs that regulates the procedure of legislative bodies. It governs how to make, amend, approve, or defeat a motion. There is no need to be intimidated – a mayor need not become a certified parliamentarian to effectively use the basic rules of procedure. Observing parliamentary procedures makes council meetings more efficient and reduces the chances of council actions being declared illegal or challenged for procedural deficiencies. (See Appendix 10 for a quick summary of parliamentary procedure.)

Motions

Business is brought before the council by motions, which are formal procedures for taking actions. To make a motion, a member must first be recognized by the presiding officer. After the member makes a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, and then call for discussion. Most motions require a second, although there are some exceptions:

- Nominations;
- Points of order;
- Questions of privilege; and
- Calls for the order of the day.

Voting and vetoes

The mayor's ability to vote on and veto motions varies, according to the city's classification and form of government. (See Appendix 2, Voting and Vetoes.)

Whose meeting is it anyway?

In general, mayors should remember that the council meeting is just that – it's the council's meeting, not the mayor's meeting. The council sets its own rules and has ultimate control over the agenda. The mayor's role is to chair the meeting.

The mayor must balance the benefits of efficient meetings with the importance of involving all members in the meeting. To be effective, the mayor needs the support of the councilmembers. Trust is built by showing evenhandedness and fairness to all participants. Trust also requires that the chairperson not use the powers of the chair unfairly to win a point or argument.

In addition to maintaining order and decorum at council meetings, the mayor must ensure that all motions are properly dealt with as they arise.

The mayor's refusal to allow a motion to be considered is subject to appeal, as are all of the mayor's decisions regarding procedures.

A simple majority vote is all that is required to overrule the mayor's decision on procedural issues, including adjournment. If the decision of the chair is sustained, no further action is taken; but if the decision of the chair is overruled by the council, the council goes forward with the discussion of the motion or other matter before it.

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The mayor as meeting participant

The mayor chairs all council meetings and, in some circumstances, is allowed to vote. The mayor might also wish to join the council in its discussions and deliberations. When mayors choose to participate, they have two competing goals: (1) as moderator, to make sure that the group achieves its goal; and (2) as an elected official, to both participate in the debate and help determine policies. Participation requires a balancing act between the moderator role and that of active engagement in debate. When the mayor decides to participate, they should exercise restraint. Overly forceful participation can dampen council discussions and result in some councilmembers deferring to the mayor's comments, simply due to the perceived role as the mayor as boss.

Remember – It's the council's meeting, not the mayor's meeting.

The council meeting agenda

There is no required format or order for the council meeting agenda. However, a typical agenda for a city council meeting looks like this:

- Call to order
- Roll call/Pledge of Allegiance
- Approval of agenda/minutes
- Comments from the public
- Consent agenda
- Ordinances & resolutions
- Public hearings
- Unfinished business
- New business
- Council action/discussion
- Committee reports
- Executive session
- Adjournment

The council's role in the council meeting

A city or town council meeting is the place to get the critical job of decision-making accomplished. A smoothly managed and productive council meeting does not necessarily guarantee good results, but it certainly helps.

Although the mayor presides over council meetings, the council as a body has ultimate authority over the matters that arise at a council meeting. As moderator, the mayor should facilitate the meeting while allowing full council participation, maintain order and decorum, and see that all motions are properly dealt with as they arise.

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The agenda

One of the most crucial tools for orderly meetings is a well-organized and well-prepared agenda. The agenda ensures that councilmembers receive adequate information in advance on items for consideration.

The council should provide the opportunity for appropriate public participation and is required to take public comment at regular meetings where "final action" is taken. State law requires each city to establish a procedure to notify the public of the agenda for upcoming council meetings. Items on the agenda should be prioritized and organized as efficiently as possible, allocating enough time for major issues and minimizing time spent on trivial, noncontroversial issues. In addition, the city must make preliminary agendas available online at least 24 hours prior to a meeting unless limited exceptions for emergencies or small jurisdictions apply.

Who determines the agenda content?

Although the council has ultimate control over the agenda, typically it's left to the mayor, city manager, or clerk to draw up the agenda, based on council input. Some cities assign this task to an agenda committee or to a councilmember who assists the mayor or manager. At the start of a regular council meeting, a council can, by motion, change the agenda, change its order of business, or add a new item of business.

Streamlining council meetings

Even the best planned council meetings can deteriorate into endurance contests. Often, these are not productive meetings – exhausted people don't always make the best decisions. Here are some tips on things you can do to "shorten" meetings.

Regulating talk

Too much talking is the most common cause of lengthy meetings. If members of the public addressing the council ramble, the mayor might tell them to confine their remarks to the subject at hand and conclude as quickly as possible. Many council procedures limit public comment to 3-5 minutes and limit the number of speakers on any one topic. Another idea is to include an approximate starting time for each major agenda item. This information may be useful to city residents attending the meeting.

If the problem is created by a talkative councilmember, a simple statement such as "it's getting late and we must move along" usually will work, though a private conversation later on may be needed to handle chronic talkers.

Shortening the agenda

An important consideration in making the agenda manageable is to keep it as short as possible. The council agenda is the place for formal actions on the part of the governing body. In general, every regular meeting agenda item should include an instrument for council action. Items that are solely for the information and advice of the council should be provided outside the formal agenda process.

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"Consent" agendas

The consent agenda helps streamline council meetings. Routine, noncontroversial items are listed collectively on the agenda and are passed with a single motion and vote.

In some cities, the actual items placed on each consent agenda are selected at a weekly city department heads' meeting. In others, an agenda committee chooses the consent items.

- Commonly, there is no debate allowed on the consent agenda or on any item included in it.
- Consent items may be read by title only.
- Any councilmember can have an item removed from the consent agenda for separate consideration. In addition, some cities allow any person attending the regular council meeting to request that an item be voted on independently. The remainder of the consent agenda can be voted on, omitting the challenged items.

Setting up a consent agenda system may require preliminary action by the council in the form of adopting an ordinance or resolution or amending the council rules.

Council work sessions

Informal council work sessions may be needed occasionally to study certain matters in detail. These are often held in conjunction with budget review. Work sessions also are useful when major policy questions must be decided, or when a complicated ordinance, such as a building code, comes before the council.

Note: The Washington Open Public Meetings Act applies to all council meetings and work sessions, whether formal or informal. (See Appendix 4, Open Public Meetings Act.)

The subcommittee*

Many elected bodies divide into subcommittees to study specific issues. Elected bodies may have both standing and ad hoc subcommittees. Subcommittees can either facilitate the decision-making process or consume unwarranted amounts of time and effort. Here are some pointers on the use of subcommittees:

1. **Clearly define the mission** before creating a subcommittee.
2. **Set deadlines** for reports.
3. **Monitor assignments** to check on progress.
4. **Establish expiration** provisions and enforce them.
5. **Rotate membership** periodically.
6. **Keep nonmembers informed** of meetings and actions.
7. **Monitor the amount of staff effort** required.
8. **Review the list of subcommittees annually** and delete those that are no longer necessary.

*Source: *Elected Official's Little Handbook*, Len Wood.

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Meeting diagnosis*

- Meetings start on time.
- Meetings end at a reasonable hour.
- The council sticks to the agenda.
- The public is encouraged to participate.
- The council does not attempt to engineer "how-to" details at the meeting.
- No one tends to dominate the discussion.
- All members participate.
- Members do not engage in side conversations during the meeting.
- Members actively listen to each other.
- Members do their homework.
- Unnecessary meetings are not called.
- Packed audiences do not unduly sway the council.

*Source: *Elected Official's Little Handbook*, Len Wood.

Voting guide

Quorum

The general rule governing the transaction of council business is that a majority of councilmembers must be present at the meeting to constitute a quorum. This means four members of a seven-member council and three members of a five-member council.

Abstentions

In the absence of a local rule to the contrary, councilmembers are free to abstain from voting on any issue before the council. Some cities have adopted local rules of procedure allowing abstentions only when the councilmember states their reason for abstaining. Other cities require councilmembers to vote on all matters before the council unless a conflict of interest exists. When a conflict of interest exists, a councilmember should refrain from voting. Generally, however, other councilmembers cannot restrain a councilmember from voting due to a conflict of interest or for any other reason.

The effect of an abstention on a vote is not specified by state law. Municipalities are free to adopt local rules of procedure stating the effect of an abstention. See Appendix 6, Sample City Council Rules of Procedure (Rule 5.4) for an example of a rule which provides that failure to vote when there is no valid disqualification is counted as an affirmative vote on the question. If a city does not have a rule, abstentions by one or more councilmembers may make it impossible for final action to be taken on a matter, particularly where a majority vote of the full council is needed.

Voting by proxy, attending meetings remotely

It is a fundamental rule of parliamentary law that the right to vote is limited to those members who are present at the time a vote is taken at a legal meeting (either physically, by phone, or through a virtual meeting service such as Zoom). Therefore, as a general rule, proxy votes are not permitted.

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Prior to the COVID-19 pandemic, the general rule was that councilmembers must be physically present at council meetings unless the council authorized a councilmember to participate remotely by phone or a computer link. During a significant portion of the COVID-19 pandemic, governing bodies were required to meet virtually pursuant to emergency proclamations issued by the governor. As a result, cities and other forms of local governments became more accustomed to working with virtual meeting technology. In 2022, the Legislature amended the OPMA to clarify that agencies may permit members of a governing body to participate remotely in a meeting with no declared emergency.

Mayor's authority to vote

Charter cities

In charter cities, each city charter governs the voting powers of the mayor.

Mayor-council form

Under the mayor-council form of government, the mayor may vote only in case of a tie vote of the council. However, statutes for each class of city may further limit the mayor's tie-breaking authority, as follows:

Second class cities. Because at least four councilmember votes are required to pass any ordinance, resolution, or order (RCW 35.23.211), the mayor cannot break a tie vote on those matters.

Towns. At least three councilmembers must vote to pass any resolution or order for the payment of money (RCW 35.27.270) or to pass an ordinance or resolution granting a franchise (RCW 35.27.330). Thus, the mayor's vote cannot be used to break a tie vote on these issues.

Code cities. A majority of the entire membership of the council is required to vote to pass any ordinance, grant, revocation of franchise or license, or any resolution for the payment of money (RCW 35A.12.120). Therefore, the mayor may not break a tie vote on these matters.

Council-manager form

In all cities operating under the council-manager form of government, the mayor is eligible to vote in their capacity as councilmember.

Mayor's veto power

- In **charter cities**, each city charter governs the veto powers of the mayor.
- In **council-manager cities**, the mayor votes as a councilmember and has no veto power.
- In **second class mayor-council cities**, the mayor may veto an ordinance, but the mayor's veto can be overruled by five members of the council (RCW 35.23.211).
- In **towns**, the mayor has no veto power.
- In **mayor-council code cities**, the mayor may veto an ordinance, but the mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.100).

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Questions & answers

Q. Can a meeting of the city council be opened with a prayer?

A. Courts have ruled that beginning a local government public meeting with a nondenominational prayer, or a silent meditation of a short duration, does not violate the U.S. Constitution. Keep in mind, however, that many residents have strong feelings about their own particular religious beliefs, and some residents adamantly feel that religion and government should not be mixed. The decision concerning whether meetings open with an invocation should be made by the council, not by the mayor. Most cities in Washington have chosen to not commence their meetings with an invocation.

Q. Who, if anyone, can make a motion for reconsideration where a matter was defeated by a tie vote?

A. Under Robert's Rules, §36, anyone who was on the prevailing side of a vote can make a motion to reconsider, and the prevailing side need not be a majority, such as when a tie vote functions to defeat a matter. In that case, those who voted no would be entitled to make the motion to reconsider.

Q. Can the mayor unilaterally adjourn a council meeting?

A. No, not in normal circumstances. The mayor can request that a councilmember move that the meeting be adjourned, but the motion and subsequent vote are up to the council. If there is a disruption during a council meeting which requires a break in the meeting to restore order, it would be appropriate for the mayor to announce that the meeting is adjourned for ten minutes, but other than that, it is up to the council whether they wish to continue dealing with business.

Q. May a councilmember who was absent when a vote was taken move to reconsider that vote?

A. No. An absent member could not have been on the prevailing side, or any side, for that matter.

Q. If the council passes an ordinance at one meeting, can that ordinance be reconsidered at the subsequent meeting?

A. If the ordinance was passed and signed by the mayor, then the ordinance can subsequently be amended or repealed, but not reconsidered.

Q. Does the mayor in a code city have veto power over ordinances?

A. Under RCW 35A.12.100, the mayor in a council-mayor code city has the power to veto ordinances passed by the city council, although a mayor's veto may be overridden by a majority of the council plus one. This is not a "line item" veto, but rather a veto over an entire ordinance only.

Practical advice

Helpful pointers from other Washington mayors.

Presiding over meetings ...

- **Work at running an efficient meeting.** Even if you live in a small town, it's important to run your meetings professionally and act professionally.
- **It is very important to have formal meetings and know Roberts Rules of Order.** One of the mistakes (particularly in small cities) is trying to be very informal. Recognize "Councilmember Smith" rather than "George." This also helps keep the debate from getting too personal.
- **Be careful with executive sessions.** Only use executive sessions for issues that are specifically allowed.
- **Bring some humor to the council meetings.** Keep your cool!
- **Insist upon decorum in council meetings.** Be courteous to members of the public and let them know you appreciate their comments.
- **Don't spring surprises on your councilmembers or city staff**, especially at public meetings. If a matter is worth discussing, it is worth putting on the agenda. Surprises may get you publicity, but they may embarrass others and tend to erode the "team" approach to governance.
- **Have your city attorney attend your council meetings**, but don't expect the attorney to know all the answers right on the spot. Give the attorney time to research issues.

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Chapter 11

Community participation at council meetings

The public evaluates the performance of its elected officials to a great extent by what happens at meetings. Many residents form their total opinions of the city government on the basis of having attended just one council meeting. This is the time to impress your community favorably and show them that the council is capable of doing its job.

The public comment period is a time slot set aside on the agenda for city residents to address the council on any subject. It is not to be confused with a public hearing, which is a formal proceeding conducted for the purpose of discussing a specific topic, such as the city budget or a proposed rezoning.

Local practices vary considerably with respect to reserving a place on the agenda for public participation. Many councils will provide an opportunity for members of the public to address the council toward the top of the agenda, so that residents can make an appearance early in the meeting and then go about their business. Other councils reserve a place for public comment at the very end of the agenda. The presiding officer should inform visitors of the place on the agenda where they will be recognized to speak. If an exceptionally controversial item draws a large crowd, it is generally wise to state the approximate time the item will come up for discussion.

Many residents form their total opinion of the city government based on having attended just one council meeting.

Move the agenda along

In the interest of time, some councils limit public comment to three or five minutes. A council should enforce comment time limits in a consistent and evenhanded manner.

Don't allow verbal exchanges between residents and councilmembers, especially if they concern administrative problems that can be solved by the staff during regular city hall hours. Public comment is a time for members of the public to voice concerns to the council, but debate between commenters and councilmembers is rarely a productive use of time.

When a city conducts public comment, speakers enjoy free speech rights under the First Amendment. That means that the council should not interrupt or cut off a speaker merely because it disagrees with the content or manner of their speech. Rather, a speaker's comments may be halted only if they cause an "actual disruption" of the meeting. See *Acosta v. City of Costa Mesa*, 718 F.3d 800 (9th Cir. 2013).

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Ask the public...

- How will this proposal affect you?
- What do you think about the proposed action?
- What are your concerns?
- What other ways can you suggest for solving the problem?

Dealing with critics and advocacy groups

Criticism of government and a lack of confidence in our country's elected leaders are rampant these days, even at the local level. External conflict, while stressful, can help frame the issues and provide other perspectives. Most important, it often shows that people feel left out and alienated from the governing body.

Providing for public comment at council meetings ensures that the needs of advocacy groups are appropriately balanced with the organization's mission and the greater needs of the community. How the governing body reacts will determine whether the conflict is diffused or spills over to other issues.

The mayor's role in managing difficult meetings*

From time to time, elected bodies are faced with conducting highly charged, controversial meetings, full of aggression and hostility. Such meetings really test the elected body and staff. Here are some ideas on handling those difficult meetings:

Before the meeting

- Try to get the participants to designate a spokesperson.
- Make agendas and back-up reports easily available to participants.
- Make sure adequate seating is available. Consider moving to larger quarters if necessary.
- Make sure sound and recording equipment is adequate and operational.

During the meeting

- Explain the issues, the possible actions and the procedures that will be followed at the meeting.
- Don't waste time or try the patience of participants at the beginning of the meeting on routine items such as correcting the minutes.
- Have speakers address the elected body and not the audience. Some speakers are very adept at inciting audiences, especially if they are permitted to face the audience.
- Explain at the beginning why clapping, shouting and other such demonstrations are counterproductive and stop such actions as soon as they occur.
- Use recesses to help diffuse hostility or aggressiveness.
- Consider limiting speakers to a set time such as three to five minutes. If such a procedure is used, make sure it's applied consistently.
- Consider using speaker cards that are filled out and turned in at the beginning of the meeting. The cards can help identify how many people wish to speak and whether they support or contest an issue. They are also invaluable in recording the names and addresses of speakers. Recognize, however, that persons not wishing to fill out a card may still have the legal right to speak.
- Make sure elected members address colleagues and not the audience. Directly addressing the audience can result in loss of control of the meeting.
- Immediately continue items that cannot be decided at the meeting. This does not preclude the elected body from allowing anyone who wishes to speak on the issue to do so.

**Source: Elected Official's Little Handbook, Len Wood.*

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Chapter 12

Ethical issues

Part of being a public official is subjecting yourself to public scrutiny. Like it or not, the public expects you to behave according to higher standards than the next person on the street.

The following list includes some of the more common problems that get newspaper coverage. At the very least, most will result in public criticism. They can also be terminal to your career.

- **Credit cards.** Using city credit cards for an unauthorized expenditure or to charge a personal item (even if the amount is repaid later).
- **Travel and conferences.** Submitting inflated or false travel expenses. This includes using agency funds for personal trips or vacations.
- **Use of letterhead.** Using official letterhead to endorse another political candidate or to achieve a personal or business gain.
- **Use of agency vehicles.** Using an agency vehicle for personal trips, vacations or political campaign activities.
- **Phones and computers.** Using official equipment for personal purposes or political campaigning.
- **Agency staff.** Using agency staff and resources for personal services or political campaigning.
- **Confidentiality.** Divulging privileged personnel, legal, or executive session information.
- **Sexual harassment.** Telling inappropriate jokes at meetings, making improper comments, or touching staff.

If you're not sure what to do, ask:

- Is it legal?
- Is it ethical?
- Is it the right thing to do?

State and local ethics laws

State law provides a specific code of ethics for city officials. RCW 42.23.070 prohibits a municipal official from:

- Using their position to secure special privileges or exemptions for themselves or others.
- Directly or indirectly, giving or receiving any compensation, gift, gratuity, or reward from any sources, except the employing city, for a matter related to the official's services.
- Accepting employment or engaging in business that the officer might reasonably expect would require them to disclose confidential information acquired by reason of their position.
- Disclosing confidential information gained by reason of the officer's position or using such information for personal gain.

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Additional resource:

Knowing the Territory, MRSC

Private interest in public contracts

State law also forbids city officials from having personal financial interests in public contracts under their jurisdiction, regardless of whether or not they vote on the matter. There are a few exceptions, some based on contract amounts. Review the statute carefully and when in doubt, consult with your city attorney (RCW 42.23.030).

Local ethics codes

Be aware that your city may have a local ethics code that interprets or supplements the state laws. There are also requirements for cities to establish their own whistleblower process, providing a means for employees to report improper governmental actions. Ask your clerk or attorney for a copy of any local ordinances or guidelines relating to ethics and conflict of interest.

Questions & answers

Q. Are elected officials prohibited from accepting even promotional gift items of minimal intrinsic value from someone who does or may seek to do business with the city?

A. Many officials, either because of the broad language of the ethics statute or on principle, refuse to accept even a business lunch under those circumstances. Others might regard items of only token or trivial value to be "de minimis", i.e., of insufficient amount to cause legal concern.

In any case, prudence is always advisable to avoid even the appearance of impropriety. Also, because the words "token" and "trivial" may have varying interpretations, a city council may wish to provide more specific guidance in a local code of ethics.

Q. Can the mayor hire a councilmember to work part-time for the city?

A. It depends. Even if a councilmember has special skills of benefit to the city, RCW 42.23.030 restricts the amount of money which can be paid to a councilmember by a city over the course of a year. For a city with a population of 10,000 or more, the amount that can be paid is zero. Additionally, a councilmember may not hold another "office" of the city. Finally, be aware that it can be awkward to have the mayor supervising a councilmember in an employer/employee relationship. Review any plans to employ a councilmember, in any capacity, with the city attorney.

Q. Can the city do business with a company owned by a mayor or councilmember?

A. Watch out! If the amount of the overall contract exceeds $36,000 (zero if the city's population is 10,000 or more), there can be serious consequences, including forfeiture of office (RCW 42.23.050). For example, a city councilmember cannot be a subcontractor on a city construction project if the overall project cost exceeds $36,000 (RCW 42.23.030). If the city's population is 10,000 or more, there can be no interest in a contract.

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Chapter 13

Resources

Who to contact when you need help

Municipal Research & Services Center of Washington (MRSC)

Here's the first place to start when you don't know where to go. Several consultants at MRSC can answer your questions over the phone or in writing. Staff experience includes municipal law, budgeting & finance, planning & growth management, public works & utilities, and public policy. MRSC's library is full of useful reference materials and includes actual city policies and ordinances. MRSC has a great website containing a wealth of information relevant to local governments in Washington state. The site also includes links to other useful websites such as state agencies.

MRSC
2601 4th Avenue, Suite 800
Seattle, WA 98121-1280
206.625.1300
1.800.933.6772
Fax 206.625.1220
mrsc@mrsc.org
www.mrsc.org

Association of Washington Cities (AWC)

AWC serves its members through advocacy, education, and services. Founded in 1933, AWC is a private, nonprofit, nonpartisan corporation that represents Washington's cities and towns before the state legislature, the state executive branch, and with regulatory agencies. AWC also provides training, data and publications, and programs such as the AWC Employee Benefit Trust, AWC Risk Management Service Agency, AWC Workers' Comp Retro, AWC Drug & Alcohol Consortium, and AWC GIS Consortium.

AWC
1076 Franklin Street SE
Olympia, WA 98501-1346
360.753.4137
1.800.562.8981
Fax 360.753.0149
wacities.org

Other ideas for helpful contacts

Here are some other ideas for you to contact when you have a problem or need information:

Neighboring jurisdictions

Many cities in the state have formed regional groups of mayors and other elected officials that meet periodically. Or call an experienced mayor with a neighboring city (they are usually honored to be called upon as an "expert").

Your liability insurance provider

Most cities in the state are covered by one of three insurance pools that provide property and liability insurance. Find out from your city clerk who your provider is. Depending on the pool, they offer a variety of resources. For example, if you're doing something where you expect a lawsuit might be filed, contact your risk pool before you take action. They can provide invaluable advice, legal resources, sample policies, and training resources.

Forging partnerships

Introduce yourself to and meet with other public agencies in your region. They may be able to help, share resources, or co-sponsor training. Examples: county, port, local economic development agency, public utility district, fire district, state agencies with an office in your area, and school districts. It may also help to contact any jurisdictions that provide contractual services to your jurisdiction.

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MRSC publications

MRSC maintains the following selected resources for city officials and staff at mrsc.org. Any of the publications below can be downloaded at mrsc.org/Home/Publications.aspx or found by browsing the MRSC website using the search toolbar.

Budget Suggestions
This annual publication contains the latest information about things that might impact your city budget such as state-shared revenue distributions, new legislation, and economic trends. Highlights include revenue forecasts, CPI and IPD information, budget calendars, fire insurance premium tax estimates, and more.

Candidate Information Resources for Local Government Elective Offices
This web page provides candidate information resources of special interest to candidates for local government elected office in Washington state.

The City Bidding Book
This book helps city officials determine whether competitive bids are required for acquiring purchases, services, or contracting for public works.

Code City Handbook
A handbook providing essential information for code city officials and indicating their powers, duties, and alternatives that are available under the applicable forms of municipal government.

Knowing the Territory – Basic Legal Guidelines for City, County, and Special District Officials
A guideline detailing the dos and don'ts regarding the exercise of governmental powers including conflicts of interest, the Open Public Meetings Act, appearance of fairness doctrine, and similar laws. It also points out immunities and protections for public officials.

The Open Public Meetings Act: How it Applies to Washington Cities, Counties, and Special Purpose Districts
This publication covers the requirements under the Open Public Meetings Act – including procedural requirements, executive sessions, appearance of fairness, exemptions, and penalties – and identifies relevant case law and attorney general opinions.

Public Records Act for Washington Cities, Counties, and Special Purpose Districts
This frequently updated publication provides a basic outline of the Public Records Act (PRA) and the procedures to follow when responding to public records requests for documents.

Quick Guide for Newly Elected City Officials
The web guide provides a quick introduction to the core duties and responsibilities of newly elected city officials in Washington state, along with recommended resources for more information.

A Revenue Guide for Washington Cities and Towns
This guide describes the major, and many of the minor, revenue sources that can be used for general government purposes. It includes common questions and answers.

Washington City & Town Officials Directory Mobile App
Download MSRC's directory of Washington city and town officials as a mobile app. Visit mrsc.org to browse the directory of city officials, city halls, phone numbers, emails, population, and city class/form of government. Or use the same website to download the app under "Research Tools" and "Washington City and Town Profiles."

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AWC publications

The following publications are available from AWC online or in print. Ask your city clerk or call AWC to request any publication. Visit wacities.org and browse these publications and more under the "Data & Resources" tab.

***Cityvision* magazine**
An award-winning magazine that examines municipal issues and trends from a high level, with articles that analyze and offer insight. The magazine creates a voice for city officials and provides another leadership tool and resource to build awareness of city issues with readers outside of city hall.

***CityVoice* newsletter**
A weekly electronic publication sent on Wednesdays to all city officials and AWC partners. The newsletter delivers information relevant to cities including breaking news, state and federal updates, tools and resources, research and data, training opportunities, grant notices, and AWC JobNet postings.

Elected officials' road map
A visual road map to help guide elected officials through their roles, including what the city does and what to know about working in elected office.

Equity Resource Guide: Tools and case studies for Washington cities

This resource guide outlines policy opportunities and intentional actions that cities can use to promote racial diversity, equity, and inclusion (DEI) for all residents.

Exploring Washington's Cities and Towns
This high-level resource offers a clear and persuasive description of the essential role they play. Find ready-to-share information and graphics that help educate your community about how cities budget and spend, what city governments do, and what city employees do every day to make our communities shine.

Homelessness & housing toolkit for cities
This publication provides real-world examples of tools and actions Washington cities have used in responding to the issues of homelessness and affordable housing.

Legislative Bulletin
This electronic publication is delivered weekly throughout the legislative session and monthly the rest of the year. The newsletter covers major issue areas and provides quick referencing by issue area.

Small City Resource Manual
This easy-to-use guide helps elected and appointed officials navigate the complexities of policymaking, governance, and operational matters in a small- to medium-sized city.

So you want to be an elected official…
Cities can give this resource to prospective candidates for municipal office. The pamphlet provides general information about how to work as part of a team, what cities do, roles and responsibilities, and where to find more information.

Strong cities advocacy guide
What can you do to help promote a strong city-state partnership? This online guide contains tips for simple actions that city officials can take to advocate for strong cities, like maintaining and building stronger relationships with your legislators and working with constituents keep the Legislature accountable.

Tax and User Fee Survey
Municipal water, sewer, and stormwater rates collected via member survey, compiled and posted on AWC's website as an aid to benchmarking, policy discussions, and utility rate setting. Historical rates are available from 2006-present.

Washington City & County Employee Salary & Benefit Survey
Find comprehensive salary and benefits data for over 120 job classifications from nearly every city and county in the state. Data is collected annually and made available to those who represent management via an online reporting tool.

Washington State Public Employer Overtime Guide
The Overtime Guide outlines the major provisions of the Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act. It provides practical advice for public employers to comply with complex laws and minimize overtime liability.

You have it, use it: Home rule in Washington
This report explores the existing authority that cities have to make decisions and laws close to home, along with the history of local control and legal attempts to clarify or undermine this authority.

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Appendix 1

Overview of statutes defining and limiting the authority of a mayor

Text in italics is taken directly from the state statutes (RCW) or state administrative code (WAC).

First class cities – mayor's authority (RCW 35.22)

Currently first class cities in Washington have their government structured in accordance with their charters. Because of the variance in charter provisions, this appendix does not deal with the role of a mayor in a first class city.

Second class cities – mayor's authority (RCW 35.23)

No second class cities in Washington operate under the council-manager form of government.

Appointment and termination authority

The mayor shall appoint and at his or her pleasure may remove all appointive officers except as otherwise provided herein: PROVIDED, that municipal judges shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of his or her office. Every appointment or removal must be in writing signed by the mayor and filed with the city clerk.[1]

Though the mayor has broad authority to terminate employees, because such action sometimes results in litigation we recommend that the mayor review termination decisions and procedures carefully with the city attorney prior to taking action.

Authority to fill vacancies in appointive positions

Vacancies in offices other than that of mayor or city councilmember shall be filled by appointment of the mayor.

If there is a temporary vacancy in an appointive office due to illness, absence from the city or other temporary inability to act, the mayor may appoint a temporary appointee to exercise the duties of the office until the temporary disability of the incumbent is removed.[2]

Authority over police

The department of police in a city of the second class shall be under the direction and control of the chief of police subject to the direction of the mayor.[3]

Authority to call special meetings of the city council

Special meetings may be called by the mayor by written notice as provided in RCW 42.30.080. No ordinances shall be passed or contract let or entered into, or bill for the payment of money allowed at any special meeting.[4]

Note that a statute in the Open Public Meetings Act also authorizes a majority of the city council to call a special meeting:

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body ...[5]

Authority to administer oaths and sign specified documents

The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.[6]

Vacancies in council positions

The council of a second class city may declare a council position vacant if the councilmember is absent for three consecutive regular meetings without permission of the council. In addition, a vacancy in an elective office shall occur and shall be filled as provided in RCW 42.12.[7]

Authority to preside at city council meetings, break tie votes

All meetings of the council shall be presided over by the mayor, or, in the mayor's absence, by the mayor pro tempore. The mayor shall have a vote only in the case of a tie in the votes of the councilmembers.[8]

Note that because at least four councilmember votes are required for the passage of any ordinance, resolution, or order, the mayor cannot break a tie vote on those matters, but can break a tie on other matters.

[1]RCW 35.23.021, in part
[2]RCW 35.23.101, in part
[3]RCW 35.23.161, in part
[4]RCW 35.23.181
[5]RCW 42.30.080, in part
[6]RCW 35.23.191, in part
[7]RCW 35.23.101, in part
[8]RCW 35.23.201

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Authority to sign and veto ordinances

Every ordinance which passes the council in order to become valid must be presented to the mayor; if the mayor approves it, the mayor shall sign it, but if not, the mayor shall return it with written objections to the council and the council shall cause the mayor's objections to be entered at large upon the journal and proceed to a reconsideration thereof. If upon reconsideration five members of the council voting upon a call of yeas and nays favor its passage, the ordinance shall become valid notwithstanding the mayor's veto. If the mayor fails for ten days to either approve or veto an ordinance, it shall become valid without the approval of the mayor.

Every ordinance shall be signed by the mayor and attested by the clerk.[9]

Though the statutes defining the role of the mayor in a second class city are limited, it is clear that the mayor is to function as the chief executive and administrative officer of the city. The powers of the city council in a second class mayor-council city are listed primarily in RCW 35.23.440 and 35.23.452. Though the city council has many powers, it is the mayor who appoints the other officers and subordinate employees who carry out the policies adopted by the council.

Preliminary budget preparation

RCW 35.33 sets out the budget responsibilities of a mayor in a second class city or town. First, there is a definition providing that the mayor is the "chief administrative officer" of the city as that term is used in the budget statutes:

"Chief administrative officer" as used in this chapter includes the mayor of cities or towns having a mayor council form of government, ... or the budget or finance officer designated by the mayor ... to perform the functions, or portions thereof, contemplated by this chapter.[10]

The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or additions to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's or town's next fiscal year he or she shall file it with the clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's or town's next fiscal year.[11]

Budget message to council

In every city or town a budget message prepared by or under the direction of the city's or town's chief administrative officer shall be submitted as a part of the preliminary budget to the city's or town's legislative body at least sixty days before the beginning of the city's or town's next fiscal year and shall contain the following:

(1) An explanation of the budget document;
(2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;
(3) A statement of the relation of the recommended appropriation to such policies and programs;
(4) A statement of the reason for salient changes from the previous year in appropriation and revenue items; and
(5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.[12]

Mayor's authority to make transfers within any one fund

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's or town's chief administrative officer subject to such regulations, if any, as may be imposed by the city or town legislative body. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city or town which may be affected.[13]

[9]RCW 35.23.211, in part
[10]RCW 35.33.011(4)
[11]RCW 35.33.055
[12]RCW 35.33.057
[13]RCW 35.33.121, in part

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Council control over appropriations to any one fund

The city or town legislative body, upon a finding that it is to the best interests of the city or town to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.[14]

The city or town council must also approve of any emergency expenditures not reasonably foreseen at the time of the filing of the preliminary budget, and such expenditures must be passed by a vote of one more than the majority of all members of the legislative body.[15]

Selection of mayor pro tem and authority of mayor pro tem

The members of the city council, at their first meeting each calendar year and thereafter whenever a vacancy occurs in the office of mayor pro tempore, shall elect from among their number a mayor pro tempore, who shall hold office at the pleasure of the council and in case of the absence of the mayor, perform the duties of mayor except that he or she shall not have the power to appoint or remove any officer or to veto any ordinance. If a vacancy occurs in the office of mayor, the city council shall elect a mayor, who shall serve until a mayor is elected and certified at the next municipal election.

The mayor and the mayor pro tempore shall have power to administer oaths and affirmations, take affidavits and certify them. The mayor or the mayor pro tempore when acting as mayor, shall sign all conveyances made by the city and all instruments which require the seal of the city.[16]

Role of mayor in council-mayor second class city

The limited role of a mayor in a council-manager second class city is defined in RCW 35.18.200.

Emergency management

The authority of the mayor to function as the "executive head" in case of emergency or disaster is the same in all cities and towns. See the "Emergency Management" section at the end of this appendix.

Towns – Mayor's authority RCW 35.27

Appointment and termination authority

The government of a town shall be vested in a mayor and a council consisting of five members and a treasurer, all elective; the mayor shall appoint a clerk and a marshal; and may appoint a town attorney, pound master, street superintendent, a civil engineer, and such police and other subordinate officers and employees as may be provided for by ordinance. All appointive officers and employees shall hold office at the pleasure of the mayor and shall not be subject to confirmation by the town council.[17]

A significant aspect of this statute is the unqualified power of the mayor to hire and fire all appointees and employees of the town. The town council has no power to confirm mayoral appointments, except mayoral appointments to the town planning commission (see RCW 35.63.020). This differs from the statutes governing a mayor's appointment power in second class and code cities.[18]

Though the mayor has broad authority to terminate employees, because such action may result in litigation, termination decisions and procedures should be carefully reviewed with the town attorney prior to taking action.

Authority to preside at council meetings, sign warrants and contracts, and administer oaths

The mayor shall preside over all meetings of the council at which he or she is present. A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor. The mayor shall sign all warrants drawn on the treasurer and shall sign all written contracts entered into by the town. The mayor may administer oaths and affirmations, and take affidavits and certify them. The mayor shall sign all conveyances made by the town and all instruments which require the seal of the town.

The mayor is authorized to acknowledge the execution of all instruments executed by the town which require acknowledgment.[19]

[14]RCW 35.33.121, in part
[15]See RCW 35.33.081 and RCW 35.33.091
[16]RCW 35.23.191
[17]RCW 35.27.070, in part
[18]See RCW 35.23.021 and RCW 35A.12.090
[19]RCW 35.27.160

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Authority over police

The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor.[20]

Authority to call special meetings of town council

Special meetings may be called at any time by the mayor or a majority of the councilmembers, by written notice as provided in RCW 42.30.080.[21]

An overlapping statute on this issue is found in the Open Public Meetings Act:

A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body ...[22]

Authority to preside at council meetings and break tie votes

The mayor shall preside at all meetings of the council. The mayor shall have a vote only in case of a tie in the votes of the councilmember. In the absence of the mayor the council may appoint a president pro tempore; in the absence of the clerk, the mayor or president pro tempore, shall appoint one of the councilmembers as clerk pro tempore.[23]

Note that a mayor's vote cannot be used to break a tie vote on passage of any resolution or order for the payment of money or for the passage of an ordinance or resolution granting a franchise (RCW 35.27.270, RCW 35.27.330).

Requirement that mayor sign ordinances – no veto power

Every ordinance shall be signed by the mayor and attested by the clerk.[24]

Note that the mayor in a town does not have authority to veto ordinances passed by the town council. The mayor is required to sign all ordinances passed by the council, even those with which he disagrees. The signing of ordinances by the mayor is a ministerial act.

Budget responsibilities

The budget responsibilities of a town mayor are the same as those for the mayor in a second class city. Refer to above section on second class cities.

Selection and authority of mayor pro tem

A mayor pro tempore may be chosen by the council for a specified period of time, not to exceed six months, to act as the mayor in the absence of the mayor.[25]

Emergency management

The authority of the mayor to function as the "executive head" in case of emergency or disaster is the same in all cities and towns. See the "Emergency Management" section at the end of this appendix.

Powers of the council

The specific powers of the town council are listed in RCW 35.27.370 and in the subsequent statutes of RCW 35.27. As mentioned above in regard to second class cities, the mayor and the individuals appointed and hired by the mayor are responsible for carrying out the policies adopted by the council.

[20]RCW 35.27.240
[21]RCW 35.27.270
[22]RCW 42.30.080
[23]RCW 35.27.280
[24]RCW 35.27.290
[25]RCW 35.27.160

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Mayor-council code cities – Mayor's authority RCW 35A.12

Residency requirement for mayor and councilmembers

No person shall be eligible to hold elective office under the mayor council plan unless the person is a registered voter of the city at the time of filing his or her declaration of candidacy and has been a resident of the city for a period of at least one year next preceding his or her election. Residence and voting within the limits of any territory which has been included in, annexed to, or consolidated with such city is construed to have been residence within the city.[26]

Prohibition on holding any other office or employment

A mayor or councilman shall hold within the city government no other public office or employment except as permitted under the provisions of RCW 42.23.[27]

Oath of office

The mayor and councilmembers shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance.[28]

Filling vacancy in office of mayor or councilmember

The office of a mayor or councilmember shall become vacant if the person who is elected or appointed to that position fails to qualify as provided by law, fails to enter upon the duties of that office at the time fixed by law without a justifiable reason, or as provided in RCW 35A.12.060 or 42.12.010. A vacancy in the office of mayor or in the council shall be filled as provided in RCW 42.12.[29]

Appointment and termination authority

The mayor shall have the power of appointment and removal of all appointive officers and employees subject to any applicable law, rule, or regulation relating to civil service. The head of a department or office of the city government may be authorized by the mayor to appoint and remove subordinates in such department or office, subject to any applicable civil service provisions. All appointments of city officers and employees shall be made on the basis of ability and training or experience of the appointees in the duties they are to perform, from among persons having such qualifications as may be prescribed by ordinance or by charter, and in compliance with provisions of any merit system applicable to such city. Confirmation by the city council of appointments of officers and employees shall be required only when the city charter, or the council by ordinance, provides for confirmation of such appointments. Confirmation of mayoral appointments by the council may be required by the council in any instance where qualifications for the office or position have not been established by ordinance or charter provision. Appointive offices shall be without definite term unless a term is established for such office by law, charter or ordinance.[30]

The above-quoted statute gives to mayors in mayor-council code cities sole authority to terminate city appointive officers and employees (subject to any applicable civil service rule or subject to any other specific statute). The statute does, however, allow the city council to provide for confirmation of mayoral appointments if the council has not previously established specific qualifications for the position through passage of an ordinance. If the council has established qualifications for a particular position, then those qualifications act as a limitation of the mayoral appointment authority. Note that in order to take advantage of this statutory authority, the council must first pass an ordinance providing for such confirmation powers.

Though the mayor has broad authority to terminate employees, because such action may result in litigation, termination decisions and procedures should be carefully reviewed with the city attorney prior to taking action.

General administrative authority

The mayor shall be the chief executive and administrative officer of the city, in charge of all departments and employees, with authority to designate assistants and department heads. The mayor may appoint and remove a chief administrative officer or assistant administrative officer, if so provided by ordinance or charter. He or she shall see that all laws and ordinances are faithfully enforced and that law and order is maintained in the city, and shall have general supervision of the administration of city government and all city interests.[31]

[26]RCW 35A.12.030, in part
[27]RCW 35A.12.030, in part
[28]RCW 35A.12.040, in part
[29]RCW 35A.12.050
[30]RCW 35A.12.090
[31]RCW 35A.12.100

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Approval of official bonds, contract enforcement, instituting litigation

All official bonds and bonds of contractors with the city shall be submitted to the mayor or such person as he may designate for approval or disapproval. He or she shall see that all contracts and agreements made with the city or for its use and benefit are faithfully kept and performed, and to this end he or she may cause any legal proceedings to be instituted and prosecuted in the name of the city, subject to approval by majority vote of all members of the council.[32]

Presiding at council meetings, casting tie-breaking votes, reports to council, preparation of proposed budget, veto power

The mayor shall preside over all meetings of the city council, when present, but shall have a vote only in the case of a tie in the votes of the councilmember with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money. He or she shall report to the council concerning the affairs of the city and its financial and other needs, and shall make recommendations for council consideration and action. He or she shall prepare and submit to the council a proposed budget, as required by RCW 35A.33. The mayor shall have the power to veto ordinances passed by the council and submitted to him or her as provided in RCW 35A.12.130 but such veto may be overridden by the vote of a majority of all councilmembers plus one more vote.[33]

The tie-breaking power of the mayor has generated confusion, partly because of the phrase "a tie in the votes of the councilmember with respect to matters other than the passage of any ordinance, grant, or revocation of franchise or license, or any resolution for the payment of money." Clearly the mayor cannot break a tie vote on an ordinance; nor can the mayor break a tie vote on the granting or revoking of a franchise or license.

MRSC has interpreted the phrase "resolution for the payment of money" quite narrowly, limiting it to resolutions such as those approving the payment of vouchers or other city claims. That narrow interpretation means that the mayor can cast the tie-breaking vote on a resolution concerning matters such as whether to proceed with a specific public works project, which will at a later date result in the expenditure of city funds. There are no state appellate court cases or Attorney General opinions which provide guidance on this issue.

Ceremonial role

The mayor shall be the official and ceremonial head of the city and shall represent the city on ceremonial occasions, except that when illness or other duties prevent the mayor's attendance at an official function and no mayor pro tempore has been appointed by the council, a member of the council or some other suitable person may be designated by the mayor to represent the city on such occasion.[34]

Authority to call special meetings of city council

Special meetings may be called by the mayor or a majority of the council by written notice delivered to each member of the council at least twenty-four hours before the time specified for the proposed meeting.[35]

Mayoral authority to call a special meeting is also provided by one of the statutes in the Open Public Meetings Act:
A special meeting may be called at any time by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering personally or by mail written notice to each member of the governing body...[36]

Preparation of preliminary budget

RCW 35A.33 sets out the responsibilities of the mayor in a code city in regard to budgeting. By definition, the term "chief administrative officer" as used in the budget statutes refers to the mayor in a code city operating under the mayor-council form of government:

"Chief administrative officer" as used in this chapter includes the mayor of cities having a mayor council form of government, the commissioners in cities having a commission form of government, the city manager, or any other city official designated by the charter or ordinances of such city under the plan of government governing the same, or the budget or finance officer designated by the mayor, manager or commissioners, to perform the functions, or portions thereof, contemplated by this chapter.[37]

The chief administrative officer (mayor) is required to prepare the preliminary budget in detail and submit it by a certain date.

[32]RCW 35A.12.100, in part
[33]RCW 35A.12.100, in part
[34]RCW 35A.12.100, in part
[35]RCW 35A.12.110
[36]RCW 42.30.080, in part
[37]RCW 35A.33.010(4)

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The chief administrative officer shall prepare the preliminary budget in detail, making any revisions or addition to the reports of the department heads deemed advisable by such chief administrative officer and at least sixty days before the beginning of the city's next fiscal year he shall file it with the city clerk as the recommendation of the chief administrative officer for the final budget. The clerk shall provide a sufficient number of copies of such preliminary budget and budget message to meet the reasonable demands of taxpayers therefor and have them available for distribution not later than six weeks before the beginning of the city's next fiscal year.[38]

Budget message to council

In every code city, a budget message prepared by or under the direction of the city's chief administrative officer shall be submitted as a part of the preliminary budget to the city's legislative body at least sixty days before the beginning of the city's next fiscal year and shall contain the following:

(1) An explanation of the budget document;

(2) An outline of the recommended financial policies and programs of the city for the ensuing fiscal year;

(3) A statement of the relation of the recommended appropriation to such policies and programs;

(4) A statement of the reason for salient changes from the previous year in appropriation and revenue items; and

(5) An explanation for any recommended major changes in financial policy.

Prior to the final hearing on the budget, the legislative body or a committee thereof, shall schedule hearings on the budget or parts thereof, and may require the presence of department heads to give information regarding estimates and programs.[39]

Expenditure limitations

The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

(1) The total amount appropriated for each fund in the budget for the current fiscal year, without regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW 35A.33.105; and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW 35A.33.150; and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW 35A.33.080 and 35A.33.090.[40]

Transfers between individual appropriations within any one fund

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. Notwithstanding the provisions of RCW 43.09.210 or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city which may be affected.[41]

Council control over appropriations to any one fund

The city council, upon a finding that it is to the best interests of the code city to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.[42]

The budget responsibilities for mayors in mayor-council code cities operating under a biennial budget process are similar, but with a different timetable.[43]

[38]RCW 35A.33.052
[39]RCW 35A.33.055
[40]RCW 35A.33.120, in part
[41]RCW 35A.33.120, in part
[42]RCW 35A.33.120, in part

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Appointment and authority of mayor pro tem

Biennially at the first meeting of a new council, or periodically, the members thereof, by majority vote, may designate one of their number as mayor pro tempore or deputy mayor for such period as the council may specify, to serve in the absence or temporary disability of the mayor; or, in lieu thereof, the council may, as the need may arise, appoint any qualified person to serve as mayor pro tempore in the absence or temporary disability of the mayor. In the event of the extended excused absence or disability of a councilmember, the remaining members by majority vote may appoint a councilmember pro tempore to serve during the absence or disability.[44]

Note that unlike RCW 35.23.191, which defines the role of a mayor pro tem in a second class mayor-council city, RCW 35A.12.065 does not specifically limit the power of the mayor pro tem to appoint or remove officers, or to veto ordinances. This has lead to some confusion concerning the powers of a mayor pro tem in a code city, and several code cities have passed ordinances specifically limiting the power of a mayor pro tem to appoint and remove officers or to veto ordinances.

Emergency management

The authority of the mayor to function as the "executive head" in case of emergency or disaster is the same in all cities and towns. See the "Emergency Management" section at the end of this appendix.

Emergency management – all cities & towns

In mayor-council cities and towns the mayor is the "executive head" who is authorized to take charge when there is an emergency or disaster; in council-manager cities, the city manager is the executive head.[45] All cities are directed to establish a local organization for emergency management and adopt an emergency management plan which is certified as being consistent with the state emergency management plan.[46] Chapter 118 in the Washington Administrative Code (WAC) contains the rules adopted by the State Division of Emergency Management which apply to all municipalities. Because each city and town has its own unique situation, emergency plans vary considerably. While some cities have chosen to establish emergency management director positions and have delegated extensive authority to those individuals, many smaller cities have chosen to coordinate their plan with the county and rely heavily upon the county for assistance in the event of an emergency.

Emergency management ordinance/resolution.

Each political subdivision must establish an emergency management organization by ordinance or resolution passed by the legislative body of the political subdivision. Two or more political subdivisions may join in the establishment of an emergency management organization.

(1) Each political subdivision must establish said organization by ordinance or resolution.

(2) Each political subdivision shall specify in the ordinance or resolution establishing the organization, how the costs of supporting the organization shall be shared between the constituent political subdivision.

(3) If two or more political subdivisions cannot agree on the sharing of costs to support the emergency management organization established by the constituent political subdivisions, the director shall refer the matter to the council. The council shall consider the matter at either a regular or special meeting. The council may request additional information from the constituent political subdivisions, the director, or other interested party(s). The council shall arbitrate the matter, and its decision shall be final.

(4) When two or more political subdivisions submit ordinances or resolutions establishing a single emergency management organization which meets the criteria set forth, the director shall inform the executive heads of the constituent political subdivisions that the emergency management organization is acceptable and authorized. Nothing in this code shall prevent one or more political subdivisions from contracting with another subdivision for emergency management activities under the provisions of chapter 39.34 RCW, the Interlocal Cooperation Act.

(5) Each political subdivision must specify in the ordinance or resolution establishing the emergency management organization, that the agency shall be headed by a director of emergency management who shall be appointed by and directly responsible to the executive head of the political subdivision.

[43]See RCW 35A.34.080 and RCW 35A.34.090
[44]RCW 35A.12.065
[45]RCW 38.52.010(13) and WAC 118.30.030(5)
[46]RCW 38.52.070(1)

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(6) In the case of an emergency management organization established by two or more political subdivisions, such political subdivisions shall specify in the ordinance or resolution establishing the organization, that the local government agency shall be headed by a local director of emergency management who shall be appointed by the joint action of the executive heads of the constituent political subdivisions. The political subdivisions shall specify by ordinance or resolution that the emergency management director shall be directly responsible to the executive authority of the constituent political subdivisions.

(7) Each political subdivision shall specify by ordinance or resolution that the local director of emergency management shall be directly responsible for the organization, administration, and operation of the emergency management organizations.

(8) Each political subdivision shall submit a copy of the ordinance or resolution establishing its emergency management organization to the director for evaluation and approval of the organizational plan or structure.

(9) Such ordinance or resolution shall constitute an approved organization for the purposes of RCW 38.52.195 and 38.52.260(2). Use of emergency workers is governed by chapter 118-04 WAC.[47]

Read your city's or town's emergency management plan thoroughly. If you have questions concerning your role and authority, review the plan with your city or town attorney. If you feel that changes should be made, review proposed amendments with your council.

The state legislature has granted broad authority to cities and towns to take all necessary action to deal with a disaster:

(2) In carrying out the provisions of this chapter each political subdivision, in which any disaster as described in RCW 38.52.020 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of an extreme emergency situation without regard to time consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements), including, but not limited to, budget law limitations, requirements of competitive bidding and publication of notices, provisions pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditures of public funds.[48]

[47]WAC 118.30.050
[48]RCW 38.52.070(2)

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Appendix 2

Voting & vetoes – A guide for mayors

Quorum

The general rule governing the transaction of council business is that a majority of councilmembers must be present at the meeting to constitute a quorum. This means four members of a seven-member council and three members of a five-member council.

The mayor's authority to vote

Charter

In charter cities, each city charter governs the voting powers of the mayor.

Mayor-council

Under the mayor-council form of government, the mayor may vote only in case of a tie vote of the council. However, statutes for each class of city may further limit the mayor's tie-breaking authority, as follows:

- **Second class cities.** Because at least four councilmember votes are required for the passage of any ordinance, resolution, or order (RCW 35.23.211), the mayor cannot break a tie vote on those matters.
- **Towns.** At least three councilmembers must vote for passage of any resolution or order for the payment of money (RCW 35.27.270) or for the passage of an ordinance or resolution granting a franchise (RCW 35.27.330). Thus, the mayor's vote cannot be used to break a tie vote on these issues.
- **Code cities.** A majority of the entire membership of the council is required to vote for passage of any ordinance, grant, revocation of franchise or license, or any resolution for the payment of money (RCW 35A.12.120). Therefore, the mayor may not break a tie vote on these matters.

Council-manager

In all cities operating under the council-manager form of government, the mayor is eligible to vote in their capacity as councilmember.

The mayor's veto power

- **Council-manager cities.** The mayor votes as a councilmember and has no veto power.
- **Second class mayor-council cities.** The mayor may veto an ordinance, but the mayor's veto can be overruled by five members of the council (RCW 35.23.211).
- **Towns.** The mayor has no veto power.
- **Mayor-council code cities.** The mayor may veto an ordinance, but the mayor's veto can be overruled by a majority plus one of the entire council membership (RCW 35A.12.100).

Abstentions

In the absence of a local statute to the contrary, councilmembers are free to abstain from voting on any issue before the council. Some cities have adopted local rules of procedure allowing abstentions only when the councilmember states their reason for abstaining. Other cities require councilmembers to vote on all matters before the council unless a conflict of interest exists. When a conflict of interest exists, a councilmember should refrain from voting. Generally, however, other councilmembers cannot restrain a councilmember from voting due to a conflict of interest or for any other reason.

The effect of an abstention on a vote is not specified by state law. Municipalities are free to adopt local rules of procedure stating the effect of an abstention. See Appendix 5, Sample City Council Rules of Procedure (Rule 5.4) for an example of a rule which provides that failure to vote when there is no valid disqualification is counted as an affirmative vote on the question. If a city does not have a rule, abstentions by one or more councilmembers may make it impossible for final action to be taken on a matter, particularly where a majority vote of the full council is needed.

Voting by proxy

It is a fundamental rule of parliamentary law that the right to vote is limited to those members actually present at the time a vote is taken at a legal meeting. State law is silent as to proxy voting by councilmembers. As a general rule, proxy votes are not permitted. If the city or town has not adopted a rule of procedure to the contrary, councilmembers must be present at the time the vote is taken. There is no Washington court case law on this issue. Remote participation at a meeting a legal alternative.

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Questions & answers

Q. If there is a quorum at the start of a council meeting but one of the councilmembers gets ill and has to leave, eliminating the quorum, can the meeting continue?

A. No. The council meeting must either be closed or adjourned to a stated date and time.

Q. Who, if anyone, can make a motion to reconsider where a matter was defeated by a tie vote?

A. Under Robert's Rules, §36, anyone on the prevailing (winning) side of a vote can make a motion to reconsider, and the prevailing side need not be a majority, such as when a tie vote functions to defeat a matter. In that case, those who voted "no" would be entitled to make the motion to reconsider. (If an ordinance was passed at one meeting, it cannot be reconsidered, although it could, of course, be amended or repealed.)

Q. Can the mayor make and second motions, and debate issues with the council?

A. In council-manager cities the mayor has the same rights to make motions and debate issues as any other councilmember. There is no statute concerning this issue for mayors in mayor-council cities. The councils in mayor-council cities can adopt rules restricting the authority of the mayor to make or second motions, and require the mayor to turn over the running of the meeting to a councilmember if they wish to vigorously participate in the debate of an issue. (See Appendix 5, Sample City Council Rules of Procedure, Rule 3.6.)

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Appendix 3

Public records disclosure

The Public Records Act deals with the public's right to inspect and/or copy public records (RCW 42.56). These state statutes were designed to ensure public confidence in government by allowing full access to information concerning the administration and conduct of government.

The definition of "public record" is quite broad. A public record includes "any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics" (RCW 42.56.010(3)). Papers, photos, maps, videos, and electronic records are all covered by the state law.

As a general rule, all city records are available for review by the public, unless they are specifically exempted or prohibited from disclosure by state law. Because the public records disclosure statutes are sometimes difficult to interpret and are often a source of litigation, MRSC has prepared thorough information on its website and in a publication that reviews all of the relevant statutes, exemptions and prohibitions to disclosure, and procedures to be followed when handling a request for disclosure. (See MRSC's Public Records Act web page and the publication *Public Records Act for Washington Cities, Counties, and Special Purpose Districts*.) MRSC and AWC have also produced a free elearning course on the Public Records Act for city and town councilmembers and mayors. The eLearning course is available to watch on demand on both the AWC website and the MRSC website.

Frequently asked questions

Q. How soon must a city respond to a request for public records?

A. State law requires that responses to requests for public records be made "promptly." Specifically, cities must respond within five business days of receiving a request by either (1) providing the record, (2) acknowledging receipt of the record and providing a reasonable estimate of the time in which a response will be made, (3) denying the request, or 4) request clarification of a request, coupled with giving an estimated response time if the request is not clarified. Additional response time beyond five days may be based upon a need to clarify the request, to locate and assemble the records requested, to notify people and agencies affected by the request, or to determine whether any of the requested records are exempt from disclosure (RCW 42.56.520).

Q. What can a city charge for providing copies of public records?

A. Cities are not allowed to charge for the staff time spent in locating a public record, or for making a record available for inspection. A city can, however, charge for the actual costs connected with copying public records, including the staff time spent making the copies. A city cannot charge more than fifteen cents a page for photocopying unless the city has calculated its actual costs per page and determined that they are greater than fifteen cents. Actual costs for postage and delivery can be included, as well as the cost of any envelopes. If a city has to pay an outside source for making duplicates of records such as photographs, blueprints or tape recordings, the city can also pass those costs on to the requestor (RCW 42.56.070(7) and RCW 42.36.120).

Additionally, cities are expressly authorized to charge for copying and producing electronic records. A city can charge actual costs incurred for providing electronic copies, including costs related to production, file transfer, storage, and transmission. If a policy establishes that calculating actual costs would be unduly burdensome, then the following default charges may be charged: ten cents/page for records scanned into electronic format, five cents for every four electronic files or attachments uploaded to an email, cloud storage service, or other electronic delivery system, and ten cents/gigabyte for transmitting records electronically (RCW 42.56.120).

Q. What constitutes a public record?

A. The state statutes broadly define public records. "'Public record' includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics" (RCW 42.56.010).

The term "writing" encompasses a wide range of communication forms or representation. Writing includes, but is not limited to, any form of letters, words, pictures, sounds, or symbols and all papers, maps, tapes, films, prints, motion picture, film, and video recordings (RCW 42.56.010).

Some records held by volunteers are excluded from the definition, if the volunteers meet certain stated

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conditions (they do not serve in an administrative capacity; have not been appointed by the city to an agency board, commission, or internship; and do not have a supervisory role or delegated agency authority.)

Q. Does a councilmember or mayor have greater access to public records than the public?

A. As a general rule, a councilmember or mayor does have greater access to public records than the public. However, a councilmember's or mayor's access should relate to the duties of that office.

Q. What public records are exempt from disclosure?

A. Public records exemptions from public disclosure are contained primarily in RCW 42.56.210-42.56.640, but there are other exemptions under state and federal law. Reference must be made to these statutes to determine on a case-by-case basis whether a particular record is exempt.

Q. Are employment applications exempt from disclosure?

A. Yes, such applications are exempt from disclosure, including the names of applicants, resumes, and other material related to the applications (RCW 42.56.250). Although the statutory exemption does not specifically refer to applications for public appointive office, its legislative history indicates that it was intended to also apply to applicants for offices, such as the office of city manager or city clerk.

Q. Is personal information contained in employee personnel files exempt from disclosure?

A. Some information in employee personnel files is exempt, but not all. RCW 42.56.230(3) exempts records in an employee's personnel file "to the extent disclosure would violate [the employee's] right to privacy." What constitutes a violation of a person's right to privacy is defined by statute to mean the disclosure of information that would be (1) "highly offensive to a reasonable person" and (2) "not of legitimate concern to the public" (RCW 42.56.050). This is a stringent test, and not all records found in personnel files would meet this test. Consult your attorney for further guidance.

Q. Must a city disclose records which reveal the salary and benefits that a particular employee or official receives?

A. Yes. There is no disclosure exemption that applies to such records.

Q. Must a city disclose utility billing records?

A. Yes, except for billing information in increments less than a billing cycle. No other exemption applies. However, the city should not disclose the residential addresses, telephone numbers, or additional contact information and permit meter data of utility customers that may be contained in such records (RCW 42.56.330).

Q. Must the city track the public records requests it receives?

A. Yes. Cities are required to maintain a log that identifies the requestor (if provided), the date and text of request, a description of records produced in response to request, a description of records redacted or withheld and the reasons for redaction/withholding, and the date of final disposition of the request.

Q. Must a city respond to a request for "all records"?

A. A city may deny a request for all or substantially all records not relating to a particular topic. Additionally, a city can also deny automatically generated (bot) requests received from the same requestor within a 24-hour period, if the requests cause excessive interference with the other essential functions.

Q. Must a city provide public records if they are being requested for commercial purposes?

A. In addition to the statutory exemptions from disclosure that a city must consider in responding to a particular request, a city is prohibited from providing or giving access to "lists of individuals" if requested for commercial purposes (RCW 42.56.070). The Attorney General's Office has interpreted this provision to refer only to lists of natural persons, rather than, for example, to lists of businesses. Public records other than "lists of individuals" requested for commercial purposes should be provided upon request if they are not statutorily exempt from disclosure.

Q. Are emails on city business sent from a personal email account of an elected or appointed city official subject to disclosure under the Public Records Act?

A. Yes, as a general rule, emails that pertain to city business that are sent by city appointed or elected officials are public records subject to disclosure under the PRA even if they are sent from the private email account of the official. That is because the term public record includes any email that relates to the conduct of government or performance of any governmental or proprietary function sent by a city official or employee, even if that email is sent from their private email account. It is subject to disclosure unless protected by one of the exemptions in the PRA itself. In addition, text messages and voicemails on a personal device that are related to city business are also likely a public record subject to disclosure.

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Appendix 4

Open Public Meetings Act

General rule

The general rule for open public meetings, with only a few minor exceptions, is that all meetings of the governing bodies of public agencies are to be open and accessible to the public. Not only must ordinances and rules be adopted at public meetings in order to be valid, but deliberations must be conducted openly, and all members of the public must be allowed to attend (RCW 42.30, Open Public Meetings Act).

A summary of open public meeting requirements is provided here. For a more complete discussion, review the MRSC publication, *The Open Public Meetings Act: How it Applies to Cities, Counties and Special Purpose Districts.*

What meetings are covered?

The Open Public Meetings Act applies to nearly all meetings of public agency governing bodies, including cities. This includes regular and special meetings of all multi-member governing bodies and subagencies (city councils, planning commissions, library or park boards, etc.). The Act applies to the meetings of committees, subcommittees, and other groups created by a governing body pursuant to its executive authority when they act on behalf of the governing body, conduct hearings, or take public testimony, whether the committee is composed of members of the governing body or not (*Citizens Alliance v. San Juan County (2015)*). Because the Act is to be liberally construed, meaning that courts will take a broad view of what constitutes a meeting, the Act should be assumed to apply unless the meeting is of a type specifically excluded by statute.

The fact that a meeting is called a workshop, study session, or retreat does not mean it may be automatically closed to the public.

What meetings are not covered?

Several types of local government meetings are not covered under the Open Public Meetings Act:

- Quasi-judicial proceedings are excluded, where the decision being made affects only individual rights and not the general public.
- Committee meetings are excluded when the committee does not exercise actual or implied decision-making power, unless the meeting is comprised of a majority of the members of a governing body. The Attorney General's office and the Washington Supreme Court have taken the position that a committee does not fall into this category when its powers are only advisory.
- Social gatherings are excluded, as long as the attendees do not take any official action or discuss the business of the governing body.
- Certain proceedings for licensing and disciplinary action and meetings for formulating collective bargaining strategies are excluded.

Executive sessions (RCW 42.30.110)

Executive sessions are portions of regular or special meetings that may be closed to the public. Only specific issues may be considered, where public disclosure would harm individual interests or legitimate interests of the governing body. An executive session may be held in the following cases:

- To consider the selection of a site or the acquisition of real estate when public knowledge would cause likelihood of increased price;
- To consider the minimum price at which real estate will be offered for sale or lease when public knowledge would cause a likelihood of decreased price;
- To receive and evaluate complaints or charges brought against a public officer or employee. Note however, upon the request of the officer or employee, a public hearing or meeting open to the public must be conducted upon the complaint;
- To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee;
- To evaluate the qualifications of a candidate for appointment to elective office, such as when filling a councilmanic vacancy. However, the interview of the candidate and final action must be in an open meeting;
- To discuss with legal counsel representing the agency, matters relating to agency enforcement actions, or litigation or potential litigation to which the agency is a party.

An executive session may be held during any regular or special meeting. Before convening the executive session, the presiding officer is to publicly announce the purpose for excluding the public and the time when the executive session will be concluded.

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Requirements for notice of meetings

The public must be informed of the time and place of meetings, both "regular" meetings and "special" meetings, except in emergencies.

- Regular meetings are recurring meetings with a time and place fixed by ordinance or rule. "Workshop" meetings of the council, if routinely held at a time and place set by ordinance, are still "regular" meetings and are subject to the Open Public Meetings Act.
- Special meetings, called by the presiding officer or a majority of the members of the governing body, must be announced in writing to all members of the governing body and members of the news media who have requested notice (RCW 42.30.080). Special meeting notices must be delivered to members of the governing body personally or by mail, fax, or email at least 24 hours in advance and posted on a website and prominently displayed at the principal meeting location (and at the meeting site if it is not held at the principal location), specifying the time and place of the meeting and the business to be transacted. Only business described in the special meeting notice can be decided, although other business can be discussed. Many cities provide notice to the public when special meetings are called if there is enough time. For instance, some cities post notice of special meetings at several places in the city, and some cities publish notice in the local newspaper.

Conclusion

The requirements of the Open Public Meetings Act are pervasive and relatively inflexible. In deciding to hold an executive session or a closed meeting, local officials should be prepared to justify the decision under a specific exemption. Officials should be alert to situations where the Open Public Meetings Act could be inadvertently violated, such as social settings, public hearings, and council retreats and workshops.

Additional resources

The Open Public Meetings Act, How it Applies to Washington Cities, Counties, and Special Purpose Districts, MRSC

MRSC and AWC's free elearning course on the Open Public Meetings Act for city and town councilmembers and mayors. The eLearning course is available on demand on both the AWC website and the MRSC website.

MRSC's Open Public Meetings Act web page

Frequently asked questions

Q. What can be done if a meeting becomes disorderly?

A. The mayor should instruct audience members on rules of courtesy; if rules are not followed, the speaker may lose the right to speak at the meeting or even be ejected for disorderly conduct. The meeting may be adjourned temporarily or moved to another location if order cannot be restored by removal of the disorderly individuals.

Q. What if a majority of the city council get together for coffee every week at the local coffee shop? Is that considered a public meeting?

A. No, not unless city business is discussed. Use extreme caution though; if a majority of the council is seen together, the public may assume that city business is the topic and allege a violation has occurred.

Q. What happens if the Open Public Meetings Act is violated?

A. There are several potential consequences for violating the procedural requirements of the Open Public Meetings Act. Most importantly, actions taken in meetings that violate the Act are null and void, including the passing of ordinances and resolutions. In addition, knowing attendance by a member at a meeting in violation of the Act is punishable by a civil fine of $500 for the first violation and $1,000 for subsequent violations. A violation of the Act by an elected official may also provide basis for recall. The party that prevails in an action for violation of the Act may recover reasonable expenses and attorneys' fees under certain circumstances.

Q. If a majority of the city council are included on an email related to city business, is the Open Public Meetings Act violated?

A. Yes, there likely is a violation of the OPMA if a quorum of the city council exchange emails in which they discuss public business. However, if one member emails the other members to share relevant information but there is no exchange of information, then likely there is no OPMA violation. In other words, if there is just passive receipt of the email, there has been no meeting. It is the exchange of emails or dialogue between the councilmembers that triggers the likelihood of an OPMA violation.

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Appendix 5

Public hearings

The principal difference between council meetings and public hearings is their purpose and the public participation requirement. The two types of proceedings may seem similar to an outsider, but council meetings are conducted primarily to make decisions, while public hearings are held to gather the data and opinions from the public that facilitate the decision-makers at the council meeting.

What is the difference between a public meeting and a public hearing?

In Washington, all meetings of governmental bodies at which decisions are made are public meetings, under the Open Public Meetings Act. At a public meeting, anyone may attend the meeting, observe, and comment.

The Legislature amended the OPMA in 2022 to require governing bodies to provide public comment, either orally, in writing, or both. During a public hearing, the public is invited to speak to the council on a specific topic or matter, and the council primarily listens and receives public input. No decisions are made by the governing body until after the public hearing portion of the proceedings has been closed.

A public hearing may be held as part of a regularly scheduled public meeting, but the two phases are conducted separately.

When is a public hearing required?

There are relatively few situations that actually require a public hearing, although there are many occasions when public hearings may be advisable. The most typical circumstances requiring public hearings are listed below.

Annexation proceedings

- Direct petition method of annexation

Budget process

- Following preliminary budget filing
- Emergency expenditures

Planning and zoning

- Adoption or amendment of a comprehensive plan
- Adoption or amendment of a zoning code

Street vacations

Local improvement districts

- Creation of a local improvement district
- Development of the assessment role
- Assessment of an omitted property

Arterial street construction

Sale of public utility property

Creation of a parking and business improvement area

Approval of preliminary plats

Removal of city manager (if requested)

What is the required notice for public hearings?

For some types of public hearings, there are specific statutory provisions containing notice requirements. Many of the public hearing statutes include notice requirements. Where no specific statutory standards regarding notice are provided, each city must establish a procedure for notifying the public of upcoming hearings. The procedures may include written notification to the city's official newspaper, publication of a notice in the official newspaper, and such other processes as the city determines will satisfy the notice requirement.

What rules govern a public hearing?

The governing body holding the public hearing may establish rules of procedure for its conduct. These rules may include limiting the time allowed for public presentations, as long as they are reasonable and fair. At the commencement of the hearing, the rules that will govern should be explained. The same quorum rules for public meetings apply to public hearings: a quorum of the decision-making body is required for the transaction of business.

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Appendix 6

Sample city council rules of procedure for mayor-council code cities

MRSC has on file numerous examples of council rules of procedures from both mayor-council and council-manager cities. This sample is not a "model" which we are recommending. We suggest that you review the rules printed here as well as other examples. Some cities have more detailed rules. You can review and download additional sets of rules of procedure through the MRSC website.

City council rules of procedure

1. **General rules**
   - **1.1 Meetings to be public**: All official meetings of the council shall be open to the public with the exception of executive sessions for certain limited topics (as defined in RCW 42.30) and closed sessions authorized by RCW 42.30.140. The journal of proceedings (minute book) shall be open to public inspection.
   - **1.2 Quorum**: Four councilmembers shall be in attendance to constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn to a later time, but no adjournment shall be for a longer period than until the next regular meeting.
   - **1.3 Attendance, excused absences**: RCW 35A.12.060 provides that a councilmember shall forfeit his/her office by failing to attend three (3) consecutive regular meetings of the council without being excused by the council. Members of the council may be so excused by complying with this section. The member shall contact the chair prior to the meeting and state the reason for the member's inability to attend the meeting. If the member is unable to contact the chair, the member shall contact the city clerk or deputy city clerk, who shall convey the message to the chair. The chair shall inform the council of the member's absence, state the reason for such absence and inquire if there is a motion to excuse the member. Upon passage of such motion by a majority of members present, the absent member shall be considered excused and the recorder will make an appropriate notation in the minutes. If the motion is not passed, the recorder will note in the minutes that the absence is unexcused.
   - **1.4 Journal of proceedings**: A journal of all proceedings of the council shall be kept by the city clerk and shall be entered in a book constituting the official record of the council.
   - **1.5 Right of floor**: Any member desiring to speak shall be recognized by the chair and shall confine his/her remarks to one subject under consideration or to be considered.
   - **1.6 Rules of order**: Robert's Rules of Order Newly Revised shall be the guideline procedures for the proceedings of the council. If there is a conflict, these rules shall apply.
2. **Types of meetings**
   - **2.1 Regular council meetings**: The council shall meet on the ___ of each month at 7 pm. When a council meeting falls on a holiday, the council may determine an alternate day for the meeting or cancel the meeting. The council may reschedule regular meetings to a different date or time by motion. The location of the meetings shall be the council chambers at city hall, unless specified otherwise by a majority vote of the council. All regular and special meetings shall be public.
   - **2.2 Special meetings**: Special meetings may be called by the mayor or any four (4) members of the council. The city clerk shall prepare a notice of the special meeting stating the time, place and business to be transacted. The city clerk shall attempt to notify each member of the council, either by telephone or otherwise, of the special meeting. The city clerk shall give at least 24 hours' notice of the special meeting to each local newspaper of general circulation and to each local radio and/or television station which has filed with the clerk a written request to be notified of special meetings. No subjects other than those specified in the notice shall be considered. The council may not make final disposition on any matter not mentioned in the notice.

     Special meetings may be called in less than 24 hours, and without the notice required in this section, to deal with emergencies involving injury or damage to persons or property or the likelihood of such injury or damage if the notice requirements would be impractical or increase the likelihood of such injury or damage.

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2.3 Continued and adjourned sessions: Any session of the council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting.

2.4 Study sessions and workshops: The council may meet informally in study sessions and workshops (open to the public), at the call of the mayor or of any three or more members of the council, to review forthcoming programs of the city, receive progress reports on current programs or projects, receive other similar information from city department heads or conduct procedures workshops, provided that all discussions and conclusions thereon shall be informal and do not constitute official actions of the council. Study sessions and workshops held by the council are "special meetings" of the council, and the notice required by RCW 42.30.080 must be provided.

2.5 Executive sessions: Executive sessions or closed meetings may be held in accordance with the provisions of the Washington State Open Meetings Act (RCW 42.30). Among the topics that may be discussed are: (1) personnel matters; (2) consideration of acquisition of property for public purposes or sale of city-owned property; and (3) potential or pending litigation in which the city has an interest, as provided in the Revised Code of Washington. The council may hold an executive session during a regular or special meeting. Before convening in executive session the chair shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session will be concluded. If the council wishes to adjourn at the close of a meeting from executive session, that fact will be announced along with the estimated time for the executive session. The announced time limit for executive sessions may be extended to a stated later time by the announcement of the chair.

2.6 Attendance of media at council meetings: All official meetings of the council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

3. Chair and duties

3.1 Chair: The mayor, if present, shall preside as chair at all meetings of the council. In the absence of the mayor, the mayor pro tem shall preside. In the absence of both the mayor and mayor pro tem, the council shall elect a chair.

3.2 Call to order: The meetings of the council shall be called to order by the mayor or, in the mayor's absence, by the mayor pro tem. In the absence of both the mayor and mayor pro tem, the meeting shall be called to order by the city clerk or clerk's designee for the election of a temporary chair.

3.3 Preservation of order: The chair shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives and confine members in debate to the question under discussion.

3.4 Points of order: The chair shall determine all points of order, subject to the right of any member to appeal to the council. If any appeal is taken, the question shall be "Shall the decision of the chair be sustained?".

3.5 Questions to be stated: The chair shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon all questions.

3.6 Mayor – powers: The mayor may not make or second motions, but may participate in debate to the extent that such debate does not interfere with chairing the meeting. If the mayor wishes to participate vigorously in the debate of an issue, the mayor shall turn over chairing of that portion of the meeting to the mayor pro tem, or to another councilmember if the mayor pro tem is absent. The mayor's voting rights and veto power are as specified in RCW 35A.12.100.

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4. Order of business and agenda

4.1 Order of business: The order of business for all regular meetings shall be transacted as follows unless the council, by a majority vote of the members present, suspends the rules and changes the order:

(1) Call to order

(2) Pledge of allegiance

(3) Council discussion/agenda review/set time restrictions (See Rules 6.1 and 7.4)

(4) Comments from city residents

(5) Consent agenda

(6) Mayor's reports

(7) Department head/council committee/board/ commission reports

(8) Other business

(9) Continued comments from city residents

(10) Councilmember comments

(11) Adjournment

The consent agenda may contain items which are of a routine and noncontroversial nature which may include, but are not limited to, the following: meeting minutes, payroll, claims, budget amendments, park use requests and any item previously approved by council with a unanimous vote and which is being submitted to council for final approval. Any item on the consent agenda may be removed and considered separately as an agenda item at the request of any councilmember or any person attending a council meeting.

4.2 Council agenda: The mayor shall prepare the agenda for council meetings. Subject to the council's right to amend the agenda, no legislative item shall be voted upon which is not on the council agenda, except in emergency situations (defined as situations which would jeopardize the public's health, safety or welfare).

4.3 Mayor and councilmember comments and concerns: The agenda shall provide a time when the mayor ("Mayor's reports") or any councilmember ("Comments from councilmembers") may bring before the council any business that he/she feels should be deliberated upon by the council. These matters need not be specifically listed on the agenda, but formal action on such matters may be deferred until a subsequent council meeting, except that immediate action may be taken upon a vote of a majority of all members of the council. There shall be no lectures, speeches or grandstanding.

5. Consensus and motions

5.1 Consensus votes: When a formal motion is not required on a council action or opinion, a consensus voice vote will be taken. The chair will state the action or opinion and each councilmember will state the councilmember's name and vote by saying "aye" or "nay".

5.2 Motions: No motion shall be entertained or debated until duly seconded and announced by the chair. The motion shall be recorded and, if desired by any councilmember, it shall be read by the recorder before it is debated and, by the consent of the council, may be withdrawn at any time before action is taken on the motion.

5.3 Votes on motions: Each member present shall vote on all questions put to the council except on matters in which they have been disqualified for a conflict of interest or under the appearance of fairness doctrine. Such member shall disqualify themselves prior to any discussion of the matter and shall leave the council chambers. When disqualification of a member or members results or would result in the inability of the council at a subsequent meeting to act on a matter on which it is required by law to take action, any member who was absent or who had been disqualified under the appearance of fairness doctrine may subsequently participate, provided such member first shall have reviewed all materials and listened to all tapes of the proceedings in which the member did not participate.

5.4 Failure to vote on a motion: Any councilmember present who fails to vote without a valid disqualification shall be declared to have voted in the affirmative on the question.

5.5 Motions to reconsider: A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same or succeeding regular meeting. No motion to reconsider an adopted quasi-judicial written decision shall be entertained after the close of the meeting at which the written findings were adopted.

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6. Public hearing procedures

6.1 Speaker sign-in: Prior to the start of a public hearing the chair may require that all persons wishing to be heard sign in with the recorder, giving their name and whether they wish to speak as a proponent, opponent or from a neutral position. Any person who fails to sign in shall not be permitted to speak until all those who signed in have given their testimony. The chair, subject to the concurrence of a majority of the council, may establish time limits and otherwise control presentations. (Suggested time limit is three minutes per speaker or five minutes when presenting the official position of an organization or group.) The chair may change the order of speakers so that testimony is heard in the most logical groupings (i.e. proponents, opponents, adjacent owners, etc.).

6.2 Conflict of interest/Appearance of fairness: Prior to the start of a public hearing the chair will ask if any councilmember has a conflict of interest or appearance of fairness doctrine concern which could prohibit the councilmember from participating in the public hearing process. A councilmember who refuses to step down after challenge and the advice of the city attorney, a ruling by the mayor or chair and/or a request by the majority of the remaining members of the council to step down is subject to censure. The councilmember who has stepped down shall not participate in the council decision nor vote on the matter. The councilmember shall leave the council chambers while the matter is under consideration, provided, however, that nothing herein shall be interpreted to prohibit a councilmember from stepping down in order to participate in a hearing in which the councilmember has a direct financial or other personal interest.

6.3 The public hearing process: The chair introduces the agenda item, opens the public hearing and announces the following Rules of Order:

(1) All comments by proponents, opponents or other members of the public shall be made from the podium; any individuals making comments shall first give their name and address. This is required because an official recorded transcript of the public hearing is being made.

(2) No comments shall be made from any other location. Anyone making "out of order" comments shall be subject to removal from the meeting. If you are disabled and require accommodation, please advise the recorder.

(3) There will be no demonstrations during or at the conclusion of anyone's presentation.

(4) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard, and to ensure that no individual is embarrassed by exercising the right of free speech.

- The chair calls upon city staff to describe the matter under consideration.
- The chair calls upon proponents, opponents and all other individuals who wish to speak regarding the matter under consideration.
- The chair inquires as to whether any councilmember has questions to ask the proponents, opponents, speakers or staff. If any councilmember has questions, the appropriate individual will be recalled to the podium.
- The chair continues the public hearing to a time specific or closes the public hearing.

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7. Duties and privileges of community members

7.1 Meeting participation: The public is welcome at all council meetings and are encouraged to attend and participate prior to the deliberations of the council. Recognition of a speaker by the chair is a prerequisite and necessary for an orderly and effective meeting, be the speaker an attendee, councilmember or staff member. Further, it will be expected that all speakers will deliver their comments in a courteous and efficient manner and will speak only to the specific subject under consideration. Anyone making out-of-order comments or acting in an unruly manner shall be subject to removal from the meeting. Use of cellular telephones is prohibited in the council chambers.

7.2 Subjects not on the current agenda: Under agenda item "Comments from city residents," the public may address any item they wish to discuss with the mayor and council. They shall first obtain recognition by the chair, state their name, address and subject of their comments. The chair shall then allow the comments, subject to a three (3) minute limitation per speaker, or other limitations as the chair or council may deem necessary. Following such comments, if action is required or has been requested, the chair may place the matter on the current agenda or a future agenda or refer the matter to staff or a council committee for action or investigation and report at a future meeting.

7.3 Subjects on the current agenda: Any member of the public who wishes to address the council on an item on the current agenda shall make such request to the chair or presiding officer. The chair shall rule on the appropriateness of public comments as the agenda item is reached. The chair may change the order of speakers so that testimony is heard in the most logical grouping (i.e. proponents, opponents, adjacent owners, etc.). All comments shall be limited to three (3) minutes per speaker, or other limitations as the chair or council may deem necessary.

7.4 Manner of addressing the council – time limit: Each person addressing the council shall step up to the podium, give the person's name and address in an audible tone of voice for the record and, unless further time is granted by the council, shall limit the person's remarks to three (3) minutes. Agenda items "Comments from city residents" and "Continued comments from city residents" shall be limited to a total of 30 minutes each unless additional time or less time is agreed upon by the council (dependent upon the length of the council agenda). All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the chair, members of the council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the council. No questions shall be asked of the councilmembers, except through the chair. The council will then determine the disposition of the issue (information only, place on present agenda, workshop, a future agenda, assign to staff, assign to council Committee or do not consider).

7.5 Personal and slanderous remarks: Any person making personal, impertinent or slanderous remarks or who shall become boisterous while addressing the council may be requested to leave the meeting and may be barred from further audience before the council during that council meeting by the chair or presiding officer.

7.6 Written communications: Interested parties, or their authorized representatives, may address the council by written communication in regard to any matter concerning the city's business or over which the council had control at any time. The written communication may be submitted by direct mail or by addressing the communication to the city clerk who will distribute copies to the councilmembers. The communication will be entered into the record without the necessity for reading as long as sufficient copies are distributed to members of the audience/public.

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7.7 Comments in violation of the appearance of fairness doctrine: The chair may rule out of order any comment made with respect to a quasi-judicial matter pending before the council or its boards or commissions. Such comments should be made only at the hearing on a specific matter. If a hearing has been set, persons whose comments are ruled out of order will be notified of the time and place when they can appear at the public hearing on the matter and present their comments.

7.8 "Out of Order" comments: Any person whose comments have been ruled out of order by the chair shall immediately cease and refrain from further improper comments. The refusal of an individual to desist from inappropriate, slanderous or otherwise disruptive remarks after being ruled out of order by the chair may subject the individual to removal from the council chambers.

These rules are intended to promote an orderly system of holding a public meeting and to give every person an opportunity to be heard.

8. Filling council vacancies and selecting mayor pro tem

8.1 Notice of vacancy: If a council vacancy occurs, the council will follow the procedures outlined in RCW 42.12.070. In order to fill the vacancy with the most qualified person available until an election is held, the council will widely distribute and publish a notice of the vacancy and the procedure and deadline for applying for the position.

8.2 Application procedure: The council will draw up an application form which contains relevant information that will answer set questions posed by council. The application form will be used in conjunction with an interview of each candidate to aid the council's selection of the new councilmember.

8.3 Interview process: All candidates who submit an application by the deadline will be interviewed by the council during a regular or special council meeting open to the public. The order of the interviews will be determined by drawing the names; in order to make the interviews fair, applicants will be asked to remain outside the council chambers while other applicants are being interviewed. Applicants will be asked to answer questions submitted to them in advance of the interview and questions posed by each councilmember during the interview process. The councilmembers will ask the same questions of each candidate. Each candidate will then be allowed two (2) minutes for closing comments. Since this is not a campaign, comments and responses about other applicants will not be allowed.

8.4 Selection of councilmember: The council may recess into executive session to discuss the qualifications of all candidates. Nominations, voting and selection of a person to fill the vacancy will be conducted during an open public meeting.

8.5 Selecting mayor pro tem and alternate mayor pro tem: The mayor pro tem and Alternate mayor pro tem will be selected by the councilmembers.

9. Creation of committees, boards and commissions

9.1 Community committees, boards and commissions: The council may create committees, boards, and commissions to assist in the conduct of the operation of city government with such duties as the council may specify not inconsistent with the city code.

9.2 Membership and selection: Membership and selection of members shall be as provided by the council if not specified otherwise in the city code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the council. No committee so appointed shall have powers other than advisory to the council or to the mayor except as otherwise specified in the city code.

9.3 Removal of members of boards and commissions: The council may remove any member of any board or commission which it has created by a vote of at least a majority of the council (this rule does not apply to the civil service commission or any other such body which has statutory procedures concerning removal).

10. Suspension and amendment of these rules

10.1 Suspension of these rules: Any provision of these rules not governed by the city code may be temporarily suspended by a vote of a majority of the council.

10.2 Amendment of these rules: These rules may be amended or new rules adopted by a majority vote of all members of the council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior council meeting.

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Appendix 7

Sample procedures: Appearance of fairness and quasi-judicial hearing

For a complete explanation of the appearance of fairness doctrine and related hearing procedures, see the MRSC publication, *Appearance of Fairness Doctrine in Washington State*. The following sample procedures provide an example of a process for complying with the appearance of fairness doctrine in quasi-judicial hearings. They are provided as an example only – please do not copy without checking with your legal counsel. MRSC has samples of other council rules of procedure which include alternative wording.

Appearance of fairness doctrine defined

"In short, when the law which calls for public hearings gives the public not only the right to attend but the right to be heard as well, the hearings must not only be fair but must appear to be so. It is a situation where appearances are quite as important as substance" (*Zehring v. Bellevue*, 99 Wn.2d 488, 1983). The court went on to say that "[t]he test of whether the appearance of fairness doctrine has been violated is as follows: Would a disinterested person, having been apprised of the totality of a board member's personal interest in a matter being acted upon, be reasonably justified in thinking that partiality may exist? If answered in the affirmative, such deliberations, and any course of conduct reached thereon, should be voided" (*id*).

Types of hearings to which doctrine applies

The appearance of fairness doctrine applies to land use decisions of the Council which are quasi-judicial in nature. Quasi-judicial actions are proceedings of the city council which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested proceeding. Quasi-judicial actions do not include legislative actions adopting, amending, or revising comprehensive, community, or neighborhood plans or other land use planning documents or the adoption of area-wide zoning ordinances or the adoption of a zoning amendment that is of area-wide significance (RCW 42.36.010). Some examples of quasi-judicial actions which may come before the council are: rezones or reclassifications of specific parcels of property, appeals from decisions of the hearing examiner, substantive appeals of threshold decisions under the State Environmental Protection Act, subdivisions, street vacations, and special land use permits.

General guidelines

A conflict of interest, but whether there is an appearance of conflict of interest to the average person. This may involve the councilmember, or a councilmember's business associate, or a member of the councilmember's immediate family. It could involve ex parte communications, ownership of property in the vicinity, business dealings with the proponents or opponents before or after the hearing, business dealings of the councilmember's employer with the proponents or opponents, announced predisposition, and the like.

Prior to any quasi-judicial hearing, each councilmember should give consideration to whether a potential violation of the appearance of fairness doctrine exists. If the answer is in the affirmative, no matter how remote, the councilmember should disclose such facts to the mayor who will seek the opinion of the city attorney as to whether a potential violation of the appearance of fairness doctrine exists. The Mayor shall communicate such opinion to the councilmember.

Anyone seeking to disqualify a councilmember from participating in a decision on the basis of a violation of the appearance of fairness doctrine must raise the challenge as soon as the basis for disqualification is made known or reasonably should have been made known prior to the issuance of the decision; upon failure to do so, the Doctrine may not be relied upon to invalidate the decision. The party seeking to disqualify the councilmember shall state with specificity the basis for disqualification; for example: demonstrated bias or prejudice for or against a party to the proceedings, a monetary interest in outcome of the proceedings, prejudgment of the issue prior to hearing the facts on the record, or ex parte contact.

Should such challenge be made prior to the hearing, the mayor shall direct the city attorney to interview the councilmember and render an opinion as to the likelihood that an appearance of fairness violation would be sustained in superior court. Should such challenge be made in the course of a quasi-judicial hearing, the presiding officer shall call a recess to permit the city attorney to make such interview and render such opinion.

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The mayor shall have sole authority to request a councilmember to excuse themselves on the basis of an appearance of fairness violation. Further, if two (2) or more councilmembers believe that an appearance of fairness violation exists, such individuals may move to request a councilmember to excuse themselves on the basis of an appearance of fairness violation. In arriving at this decision, the mayor or other councilmembers shall give due regard to the opinion of the city attorney.

Notwithstanding the request of the mayor or other councilmembers, the councilmember may participate in any such proceeding.

Hearing procedure

1. The mayor or other individual chairing the meeting will start by first describing the purpose of the meeting and will then read RCW 42.36.060:

   During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding unless that person:

   (1) Places on the record the substance of any written or oral ex parte communications concerning the decision of action; and

   (2) Provides that a public announcement of the content of the communication and of the parties' rights to rebut the substance of the communication shall be made at each hearing where action is considered or taken on the subject to which the communication related. This prohibition does not preclude a member of a decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a resident and their elected official if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

2. The chairperson will then ask each councilmember to state for the record what ex parte contacts they have had, whether written or oral, concerning the matter to be decided.

3. The chairperson will then ask the following questions:
   (a) Does any member of this council have knowledge of having conducted business with either the proponents or opponents of this [name type of project or proceeding]?
   (b) Does any member of this council have either a pecuniary or a nonpecuniary interest in the outcome of this proceeding?
   (c) Does any member of this council know whether or not their employer has a financial interest in the land or area which will be impacted by the decision in this proceeding?
   (d) Does any member of this council live or own property within 300 feet of the area which will be impacted by the decision in this proceeding?
   (e) Does any member of this council have any special knowledge about the substance of the merits of this proceeding which would or could cause the councilmember to prejudge the outcome of this proceeding?
   (f) Is there any member of this council who believes that they cannot sit and hear this matter fairly and impartially, both as to the respective positions of the proponents and the opponents in this proceeding?
   (g) Is there any member of the audience who because of the "appearance of fairness doctrine" wishes to disqualify any member of the council from hearing this matter? If so, please state the name of the councilmember and the reason or reasons why you believe that councilmember should be disqualified.

After the above procedure has been followed and all requests for disqualification have been handled, the mayor or other person chairing the meeting will proceed with the hearing in accordance with the agenda.

Additional resources

Public Hearings – When and How to Hold Them, MRSC Focus

Knowing the Territory, MRSC

The Appearance of Fairness Doctrine in Washington State, MRSC

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Appendix 8

Public participation: Tips for talking with the council

The following is part of one city's guidance to the public on how they can provide input at council meetings. Similar language appears on several city web pages on the Internet.

- The city council welcomes participation in all public meetings. Arrangements for a sign language interpreter, hearing assistance and other assistance can be made by calling the council secretary at _____or the deputy city clerk at _____.
- When you feel strongly about a public issue or a local concern, the council encourages you to share your information and thoughts with them. If you are unable to attend a meeting or would rather not give testimony at the meeting, you are encouraged to send/fax a letter which would be made a part of the official record.
- To speak during the public comment period, you do not have to sign up in advance, and you may talk on any item and/or concern not scheduled for a public hearing.
- If you want to speak on the topic at a public hearing scheduled for that evening, you must comment during the public hearing portion of the meeting, however, you need not sign up in advance.
- When you talk with the council, step up to one of the microphones and identify yourself by stating your name and address so they will know who you are. Be sure your microphone is on and speak into it clearly (it is not necessary to try to adjust the microphone to your height).
- During the public comment period, your comments are limited to three minutes. These are guidelines to help councilmembers hear as many different viewpoints as possible in the limited time available. If you are speaking for a group, you must tell the council how the group developed the position that you are presenting.
- If previous speakers have already made the comments you wish to make, feel free simply to identify yourself and indicate your agreement with what has already been said.
- During the public comment periods, residents have called the council's attention to a wide variety of issues concerning the city. Residents' views have ranged from concerns about parking in front of their homes to improving wheelchair accessibility throughout the city.

Suggested presentation model for precise, well organized proposals

- **Point.** What is the idea you wish to present? Begin with an "I statement" outlining your idea, such as, "I am here to (support/oppose)..."
- **Reason.** Why you are making this point. This is an important step so the listener does not make assumptions about your motives.
- **Example.** Brief and relevant example to clarify and make your point concrete.
- **Summary.** What condition will be changed or improved if your point is adopted?
- **Action.** (If appropriate, depending on the situation) What needs to be done and who will do it.

Public hearings

A public hearing offers you a formal opportunity to give your views to the Council on the subject of the hearing.

- To give testimony, step up to one of the microphones and identify yourself by stating your name and address for the record. When you talk to the council during a public hearing, councilmembers, staff and the audience will remain silent. After the last person has spoken, the hearing will be closed. The city council will then discuss and will often decide on the issue.
- The audience may not comment during council's deliberations unless a councilmember requests more information from a speaker.
- Again, you are also encouraged to submit your written comments on the subject to the council secretary or city clerk before the meeting so they can be included in the record and distributed to the council.

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Appendix 9

Meeting tips

Meeting savvy

Consider these pieces of advice when preparing for a meeting:

- **Give colleagues time to assimilate things.** You'll notice that an idea rejected one day may be presented by the one who opposed it earlier.
- **Don't try to please everyone.** This simply does not work and makes you look weak and indecisive.
- **Confront meeting disrupters immediately.** Don't let them take control of the meeting or set its tone.
- **"We've always done it this way."** Don't become so enamored with precedent that it keeps the group from moving forward.
- **Don't waste quality meeting time dealing with routine complaints that can be resolved by staff outside the meeting.**
- **Apply rules equally with all participants.** Don't strictly enforce a time limit for one person and be lax with another.
- **Be careful about using first names of audience members you know and last names of those you don't.** It may be interpreted as bias.
- **Alert staff before the meeting if you intend to bring up an important issue.** This simple courtesy will help staff prepare background information and avoid embarrassment.
- **Be sensitive to audience perceptions regarding your neutrality during a recess, especially during hot meetings.** If you meet with one group and not with another, you may be perceived as favoring that group.
- **If you disagree with a significant statement or proposal made by a colleague or staff member at a meeting, express that disagreement.** Silence may be interpreted by staff as agreement and they may take action based upon that assumption.

Chairperson faux pas

Acting as the chair for a group is a demanding task. Here are some common mistakes:

- Failing to remain impartial during a heated discussion.
- Forgetting to relinquish the gavel when the chair becomes emotionally involved in an issue.
- Treating members unevenly.
- Cutting off discussion before members are ready.
- Failing to close discussion in a timely manner.
- Failing to establish or follow the agenda.
- Allowing the meeting to become too informal; letting the meeting drift.
- Neglecting to explain the process being followed.
- Failing to restate audience questions so all in the audience can hear.
- Failing to recognize and deal with councilmember objections to procedure or process.
- Failing to protect members and staff from verbal attack.
- Losing track of amendments to motions.
- Failing to restate motions before they are voted upon.
- Forgetting to call recesses during long meetings.
- Neglecting to reconvene the meeting at the specified time after a recess.

Resist the temptation to be a dictator at council meetings. Remember: it's the council's meeting, not the mayor's meeting.

Source: ***Elected Official's Little Handbook***, Len Wood.

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The art of asking questions: How to aid discussion by asking the right questions

Questions are one of the most important tools you can use to obtain information, focus the group and facilitate decision-making. Here are some samples:

Asking of colleagues

- How do you feel about this item?
- What do you think the proposed action will accomplish?
- Would you please elaborate on your position?
- What results are we looking for?

Asking of staff

- What other alternatives did you consider?
- Why has this item come to be on our agenda?
- What are we trying to accomplish with this law/policy?
- What are the benefits and drawbacks?
- Will you please explain the process?
- Have we ever made an exception to this policy?
- What would it take for you to support this?
- What type of feedback have you received from the residents?

Asking of the public

- How will this proposal affect you?
- What do you think about the proposed action?
- What are your concerns?
- What other ways can you suggest for solving the problem?

To broaden participation

- We've heard from some of you. Would others who have not yet spoken like to add their ideas?
- How do the ideas presented thus far sound to those of you who have been thinking about them?
- What other issues related to this problem should we discuss?

To limit participation

- We appreciate your contributions. However, it might be well to hear from some of the others.
- You have made several good statements, and I am wondering if someone else might like to ask a question or make a statement.
- Since all of the group have not yet had an opportunity to speak, I wonder if you could hold your comments until a little later?

To focus discussion

- Where are we now in relation to the decision we need to make?
- Would you like to have me review my understanding of what's been said and where we are?
- Your comment is interesting. However, I wonder if it relates to the problem before us?
- As I understand it, this is the problem...Are there additional comments before we come to a decision?

To help the group move along

- I wonder if we've spent enough time on this and are ready to move along to. . .?
- Have we gone into this part of the problem far enough so that we can shift our attention to...?
- In view of the remaining agenda items, would it be well to go to the next question before us?

To help the group reach a decision

- Do I sense an agreement on these points. . .?
- What have we accomplished up to this point?
- Should we look at our original objective and see how we close we are to it?
- Would someone care to sum up our discussion on this issue?

To lend continuity

- At our last meeting we discussed this issue. Anyone care to review what we covered then?
- Since we cannot reach a decision at this meeting, what issues should we take up at the next one?
- Are there points that need further study before we convene again?

Source:
Elected Official's Little Handbook, Len Wood
If You Only Had More Time – But You Don't, International City Management Association

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Appendix 10

Parliamentary procedure

Parliamentary procedure provides the process for proposing, amending, approving and defeating legislative motions. Although following parliamentary procedure is not required, it can make council meetings more efficient and reduce the chances of council actions being declared illegal or challenged for procedural deficiencies.

A city may adopt, by ordinance or resolution, its own set of rules governing the conduct of council meetings, or it may adopt by reference formalized rules such as Robert's Rules of Order. Many Washington cities have adopted Robert's Rules, supplementing those rules with additional rules on issues such as voting abstentions and motions for reconsideration. (See Appendix 6, Sample Council Rules of Procedure.)

Motions

Business is brought before the council by motions, a formal procedure for taking actions. To make a motion, a councilmember must first be recognized by the mayor. After the councilmember has made a motion (and after the motion is seconded if required), the chair must then restate it or rule it out of order, then call for discussion. Most motions require a second, although there are a few exceptions.

Exact wording of motions and amendments is important for clarity and recording in the minutes. If it's a complex motion, the motion should be written down for the chair to read.

Robert's Rules

The following summarizes important points from Robert's Rules of Order. Other parliamentary rules or your own council rules of procedure may contain different provisions.

- Only one subject may be before a group at one time. Each item to be considered is proposed as a motion which usually requires a "second" before being put to a vote. Once a motion is made and seconded, the chair places the question before the council by restating the motion.
- "Negative" motions are generally not permitted. To dispose of a business item, the motion should be phrased as a positive action to take, and then, if the group desires not to take this action, the motion should be voted down. The exception to this rule is when a governing body is asked to take action on a request and wishes to create a record as to why the denial is justified.
- Only one person may speak at any given time. When a motion is on the floor, an order of speaking is prescribed by Robert's Rules, allowing the mover of a motion to speak first, so that the group understands the basic premise of the motion. The mover is also the last to speak, so that the group has an opportunity to consider rebuttals to any arguments opposing the motion.
- All members have equal rights. Each speaker must be recognized by the moderator prior to speaking. Each speaker should make clear their intent by stating, "I wish to speak for/against the motion" prior to stating arguments.
- Each item presented for consideration is entitled to a full and free debate. Each person speaks once, until everyone else has had an opportunity to speak.
- The rights of the minority must be protected, but the will of the majority must prevail. Persons who don't share the point of view of the majority have a right to have their ideas presented for consideration, but ultimately the majority will determine what the council will or will not do.

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Types of motions

Robert's Rules of Order provides for four general types of motions.

Main motions

The most important are main motions, which bring before the board, for its action, any particular subject. Main motions cannot be made when any other motions are before the group.

Subsidiary motions

Subsidiary motions are motions which direct or change how a main motion is handled. These motions include:

Tabling. Used to postpone discussion until the group decides by majority vote to resume discussion. By adopting the motion to "lay on the table", a majority has the power to halt consideration of the question immediately without debate. Requires a second, nondebatable, not amendable.

Previous question or close debate. Used to bring the body to an immediate vote. It closes debate and stops further amendment. Contrary to some misconceptions, the majority decides when enough discussion has occurred, not the moderator. The formal motion is to "call for the question" or "call for the previous question," or simply, "I move to close debate." The motion requires a second, is not debatable and requires a two-thirds majority.

Limit/extend debate. May be desired if the group has adopted a rule limiting the amount of time that will be spent on a topic, or if the group desires to impose a time limitation.

Postpone to a definite time. Similar to tabling, except that the motion directs that the matter will be taken up again at some specific date and time.

Refer to committee. Directs that some other body will study the matter and report back.

Amendment. Used to "fine tune" a motion to make it more acceptable to the group. The amendment must be related to the main motion's intent and cannot be phrased in a way that would defeat the main motion. Two amendments may be on the floor at one time: the first amendment modifies the main motion, and the second amendment must relate to the first amendment. When an amendment is on the floor, only the amendment may be debated. The amendments are voted on in the reverse order in which they were made, as each amendment changes to some degree the intent of the main motion. As each amendment is voted on, an additional primary or secondary amendment may be introduced. Requires a second, debatable, majority vote.

Postpone indefinitely. This motion effectively kills a motion, because, if adopted, a two-thirds vote is subsequently required to take the matter up again.

Incidental motions

Incidental motions are housekeeping motions which are in order at any time, taking precedence over main motions and subsidiary motions. These motions include:

Point of order. To bring to the group's attention that the rules are being violated. You don't need not to be recognized prior to making a point of order. This is not really a motion, but requires the moderator to make a ruling as to whether or not immediate consideration is proper.

Appeal from the decision of the chair. The group can overrule the chair on any decision. While the motion must be seconded, it cannot be amended. When this motion is moved and seconded, the moderator immediately states the question, "Shall the decision of the chair stand as the judgment of the council?" If there is a tie vote, the chair's decision is upheld. The motion is not debatable when it applies to a matter of improper use of authority or when it is made while there is a pending motion to close debate. However, the motion can be debated at other times. Each person may speak once, and the moderator may also state the basis for the decision.

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Parliamentary inquiry. Not a motion, but a question as to whether an action would be in order.

Point of information. A person may rise to offer information that is considered necessary for the group. This provision is not used to offer debate.

Division of assembly. To require a more precise method of counting votes than by a voice vote, such as having persons raise hands, or stand. No second, not debatable, no vote required.

Request to withdraw a motion. Contrary to popular misconception, a motion cannot be withdrawn by its mover. This request requires majority approval.

Suspension of the rules. When matters are to be taken out of order, or a particular task can be better handled without formal rules in place, this motion can be approved by a two-thirds vote of the group. However, until the rules are restored, only discussion can occur; no decisions can be made. Second required, not debatable, not amendable.

Object to consideration of a question. When a motion is so outrageous, intended to distract the group from resolving legitimate business. The motion can be objected to and ruled out of order without debate. However, if the chair does not rule the motion out of order, a two-thirds vote of the group can block further consideration

Renewal motions

Once the group has taken action, renewal motions require the group to further discuss or dispose of a motion. The motions include:

Reconsider. When the group needs to discuss further a motion that has already been defeated at the same meeting. A majority of the council must approve taking additional time to debate the motion again. The motion can be made only by a person who voted on the prevailing side earlier on the question. Contrary to another popular misconception, the motion may be brought up again at a subsequent meeting. If the moderator believes that there is no indication that the group's wishes have changed, however, the motion can be ruled out of order, subject to an appeal from the decision of the chair.

Take from the table. Unless the original motion to table directed that the motion be brought back at a specific date and time, a majority of the group must pass a motion to take from the table. Such a motion is nondebatable.

Rescind. When the group wishes to annul some action, a motion to rescind is in order at any time. If prior notice has been given to the group that this action will be considered, the motion to rescind can pass with a simple majority vote; however, if no prior notice has been given, the vote requires a two-thirds majority.

Questions of privilege

Finally, there are a few questions of privilege that are in order at any time and must be disposed of prior to resuming discussion on the matter at hand:

Fix the time for next meeting. This is in order at any time, including when a motion to adjourn is pending. Second required, not debatable, amendable.

Adjourn. To bring the meeting to a halt. Second required, not debatable, not amendable. Alternatively, instead of a motion, the chair can ask if there is any further business. If no response, the chair can say, "since there is no further business, the meeting is adjourned."

Recess. A temporary break in the meeting; should state a time at which the meeting will resume. Second required, not debatable, not amendable.

Point of privilege. A matter that concerns the welfare of the group. Can be raised even when another person is speaking. No second, not debatable, no vote required.

Call for the orders of the day. A demand that the group return to the agenda. Can be taken when another person is speaking, no second required, not debatable, no vote required.

Source: ***Survival Guide for Elected Leaders***, National Association of Towns and Townships.

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Appendix 11

Keeping out of trouble

Public officers have the duty of serving the public with undivided loyalty, uninfluenced by any private interest or motive. Care must be taken not to violate this duty of trust, either in appearance or in fact. The behavior of public officers is often scrutinized by the public and is the subject of a profusion of laws. The statutory provisions and common law doctrines that public officials should be familiar with include:

- Conflict of interest
- Incompatible offices
- Appearance of fairness
- Public records disclosure
- Financial disclosure
- Salary increase prohibitions

Keep in mind that there may be overlap between these topics. For example, an activity that passes the conflict of interest test may violate appearance of fairness. It is beyond the scope of this publication to discuss most of these doctrines in any detail. However, be aware that more detailed information is available on these doctrines in the MRSC publication *Knowing the Territory*.

A brief discussion of financial disclosure requirements and the salary increase prohibitions will be provided here because these doctrines are not discussed in *Knowing the Territory*.

Financial disclosure by public officials

Another component of "open government" is personal disclosure of the financial affairs of elected officials. The disclosures of political campaign financing and legislative lobbying are other important areas, but they will not be discussed here. Presumably, councilmembers have been exposed to those requirements as part of their campaign process.

Financial disclosure is required of all elected officials and members of their immediate families, except in small cities and towns. (RCW 42.17A.710). A statement of financial affairs for the preceding calendar year must be filed between January 1 and April 15. Financial disclosure is also required of an appointee in an elective office vacancy.

Q. Is any financial disclosure required of nonelected officials?

A. The only appointed city official who is required to make personal financial disclosures is the treasurer. (RCW 42.17A.570). Cities and towns with populations of 1,000 or fewer are exempt. The scope of the financial disclosure required of treasurers is more limited than for elected officials, consisting of information about financial institutions where the treasurer holds an office, directorship, or ownership interest and where public funds are held.

Q. What small cities and towns are exempt from disclosure requirements?

A. Officials in cities and towns with fewer than 2,000 registered voters as of the date of the most recent general election are exempt from the financial reporting requirements. (RCW 42.17A.135). However, officials in these municipalities can be required to file financial disclosures upon petition of 15 percent of the registered voters or upon adoption of an ordinance or resolution to that effect.

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Salary increases for elected officials

Q. May a councilmember receive a salary increase immediately?

A. The general rule is that salary increases, adopted by ordinance, may not raise the salaries of current councilmembers. The state constitution prohibits an increase (or decrease) in the salary of city or town councilmembers after election or during their term of office. This means that the city or town council can vote to increase salaries, but the new salaries may not take effect until after the next election, and even then would be effective only for those councilmembers who are up for re-election. As long as the salary increase ordinance was passed prior to the election, councilmembers are eligible to receive the pay increase as soon as they begin a new term of office. There is one exception. If salaries are set by a salary commission, an increase can go into effect immediately.

Q. May a mayor in a mayor-council city receive a salary increase immediately?

A. The salary of mayors may be raised during their term of office, as long as their vote was not required to pass the applicable ordinance. The state constitution contains an exception allowing salary increases during an official's term in office if that official does not fix their own compensation. The exception cannot be triggered by an official abstaining from the vote for a salary increase because it is a councilmember's authority to fix compensation that is determinative. This exception would allow the salary of a mayor in a mayor-council city to be increased during their term of office, provided that the vote of the mayor is not necessary for the passage of the applicable ordinance. (Attorney General's Opinion, AGO 1968 No. 36).

Q. May a person appointed to fill a council vacancy receive a salary increase immediately, if the increase was enacted prior to the appointment?

A. No, because the Washington Supreme Court has held that the constitutional provision forbidding change in the compensation of a public officer during a term of office refers to the term itself, not to the individual. Therefore, the salary increase is not effective as to an officer appointed or elected to fill out the unexpired term of their predecessor, in situations where the predecessor had been elected prior to the time the salary increase was adopted. (State ex rel. Wyrick v. Ritzville, 16 Wn.2d 36, (1942)).

Are mayor and councilmember emails, texts, and social media subject to public disclosure?

It is important for councilmembers to understand that emails they send, which qualify as public records, are subject to public disclosure under the state Public Records Act (RCW 42.56). Under the Act, a "public record" is broadly defined to include electronic records "containing information relating to the conduct of government or the performance of any proprietary function . . ." Email, text messages, social media, like any other written correspondence and memoranda, which falls within this definition, with few exceptions stated by the Public Records Act, are public records.

This means that email, text, and social media communications between councilmembers, councilmembers and community members, councilmembers and other officials, councilmembers and members of boards and commissions, and councilmembers and city staff may be subject to disclosure. Caution: Keep this in mind as you communicate, recognizing that your audience may ultimately be broader than the direct recipients of your communication.

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Appendix 12

Initiative, referendum, and recall

Initiative and referendum

The powers of initiative and referendum are means by which residents can impact legislation directly. Initiative is the power of the public to initiate ordinances by petition. Referendum is the means by which the public can have enacted ordinances referred to them for review. These powers of the public are not universally available. In fact, the powers of initiative and referendum are only available in first class cities, code cities, and cities organized under the commission form of government. Code cities do not automatically have the powers of initiative and referendum, but may adopt them, either by voter resolution or by resolution of a majority of the city council.

(First class cities - RCW 35.22.200 (and the charters); code cities - RCW 35A.11.080 - .100).

How are the powers of initiative and referendum exercised?

Initiative and referendum procedures in first class cities are controlled by each city's charter. Voters of a commission city or a code city which has acquired the powers of initiative and referendum may initiate ordinances or have certain ordinances which have been passed by the legislative body referred to them for affirmation or rejection at an election. In either instance, the process is begun by petition. In a commission city, a petition is filed, signed by registered voters equal in number to 25 percent of the votes cast for mayoral candidates at the last preceding city election. In a code city, the petition requires signatures of registered voters equal to 15 percent of the number of registered voters in the city as of the date of the last preceding city general election.

Certain ordinances are not subject to referendum. The following ordinances are excepted from the process in both commission and code cities:

- Ordinances initiated by petition
- Ordinances necessary for the immediate preservation of public peace, health, and safety, or for the support of city government and its existing public institutions, which contain a statement of urgency and are passed by a unanimous vote of the commission or council
- Ordinances providing for local improvement districts

In addition, the following types of ordinances are exempt from referendum in a code city:

- Ordinances appropriating money
- Ordinances providing for or approving collective bargaining
- Ordinances providing for the compensation of or working conditions of city employees
- Ordinances authorizing or repealing the levy of taxes

If a valid petition is filed seeking a referendum, the ordinance does not go into effect until it has received a majority of the votes cast at the election.

If a valid initiative petition is filed (accompanied by a proposed ordinance), the commission or council shall either pass the ordinance within 20 days of the clerk's certification of the petition, or else submit the ordinance to the voters at a general or special election called for that purpose. (RCW 35.17.260).

Recall

Elected officials are subject to voter petition for recall under state law (RCW 29A.56.110-29A.56.270). The procedures require that a petition be filed setting forth charges that an elected public official has committed an act, or acts, of malfeasance, or has violated their oath of office. "Misfeasance" or "malfeasance" means performance of a duty in an improper manner or wrongful conduct that interferes with performance of official duty. "Violation of the oath of office" means the willful neglect or failure by an elective public officer to faithfully perform a duty imposed by law. The petition for recall must state specific conduct that clearly amounts to misfeasance, malfeasance, or violation of the oath of office. In addition, the person making the charge must have knowledge of the underlying facts. If the court finds the petition sufficient, then the sponsors of the recall must obtain a set number of supporting signatures before the recall election is conducted. A majority vote in favor of recall results in the official's discharge from office.

Voter actions such as recall are rarely initiated. The availability of such extreme remedies, however, serves to emphasize the accountability of elected officials to the public. This accountability, which is at the core of our political system, places certain expectations on the behavior of elected officials. Some of these expectations are explicitly formulated into rules, an understanding of which is necessary to keep elected officials out of trouble.

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Appendix 13

The mayor pro tempore

On occasion, a councilmember may need to serve in the role of mayor. The mayor pro tempore (also called the mayor pro tem or the deputy mayor) is appointed by the council to serve in the absence of the mayor. The mayor pro tempore presides at meetings of the council, administers oaths, and signs instruments in the absence of the mayor. A councilmember acting as mayor pro tempore generally retains their councilmanic vote. The mayor pro tempore generally serves only when the mayor's absence is temporary. When a vacancy occurs in the office of mayor, a new mayor is appointed by the council. The authority of a mayor pro tempore varies somewhat according to the city classification.

- **First class cities**: The powers of the mayor pro tempore are controlled by the city charter.
- **Second class cities**: The mayor pro tempore is a councilmember elected by the members of the council. The mayor pro tempore may not appoint any officer or veto any ordinance. (RCW 35.23.191).
- **Towns**: The mayor pro tempore is chosen by the council for a specified period of time, not to exceed six months. (RCW 35.27.160).
- **Code cities**: The Optional Municipal Code calls for the designation by the city council of a councilmember or "any qualified person" to serve as mayor pro tempore. (RCW 35A.12.065).

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Definitions

Administrative. Pertaining to management and carrying out of laws and functions, as opposed to legislative and judicial.

Agency and trust funds. Funds established to account for cash and other assets held by a municipality as agent or trustee. Such funds are not assets of the municipality but, through the operation of law or by agreement, the municipality is responsible for their accountability. Examples are the Fireman's Relief Fund and the Police Pension Fund.

Allocation of funds. To set aside funds for a specific purpose or program.

Amendment. A change or addition which changes the meaning or scope of an original formal document. Often these are laws or regulations. However, plans or specifications can also be amended.

Appropriation. A sum of money authorized by a legislative body to be spent for a certain purpose.

Assessment. The value placed on an item of real or personal property for property tax purposes. The rate of tax times the value equals the amount of tax levied on the property. Also a special tax levied on the property within a special assessment district.

Audit. An examination of the financial activities of an agency and the report based on such examination.

Bond. A debt instrument issued by a municipality. Bonds normally bear interest. They are a common way of raising money for capital improvements.

Budget. A plan for spending and receiving money to sustain municipal operations during a fiscal year or years. A capital budget is a plan for financing purchases or construction of items of high cost and long life, such as fire engines, streets, and buildings.

Capital outlay. Expenditures made to acquire fixed assets or additions to them. They are recorded in the general fund or utility fund where the assets are to be used. Ultimately, under good property accounting, such assets acquired through the general fund should be reflected in the general fixed assets group of accounts.

Capital program or capital budget. A schedule of purchase or construction of items of high cost, such as fire engines, streets, and buildings, over a period of years (normally five) together with a plan for spending and receiving the money to pay for the items.

Capital reserve fund. Established to account for resources legally set aside for anticipated capital expenditures, including construction, purchase or replacement of, or additions to, municipal building, equipment, machinery, motor vehicles or other capital assets.

Certification. A formal, written declaration that certain facts are true or valid.

City manager. The chief administrator of a municipality in the council-manager form of government, appointed by the council as the city's chief executive.

Civil service system. A means of hiring & disciplining employees, usually pertaining to police and fire, whereby a civil service commission hears appeals on complaints brought by employees and applicants.

Cluster development. A type of residential development where the overall density conforms to typical standards but allows for the concentration of structures on a portion of the tract while leaving the remaining open space for common resident usage. This type of development should be sympathetic to environmental conservation and protection.

Collective bargaining. A process by which an employee organization/union negotiates with an employer to reach agreement on wages, hours, and terms and conditions of employment.

Comprehensive plan. A generalized, coordinated land use policy statement of the governing body of a city, town, or county, consisting of a map or maps and descriptive text covering objectives, principles and standards used to develop the plan. A GMA comprehensive plan must include a plan, scheme, or design for (at least) the following elements: land use; housing; capital facilities; utilities; natural resource lands and critical areas; and rural areas (counties only).

Conditional use. A use which is not appropriate to a particular zone district as a whole, but may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within the zoning ordinance are present. Conditional uses are allowed or denied by a board of adjustment, planning commission, city council or hearings examiner.

Council. The governing body of a city which sets legislative policy for the city.

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Debt service. Payments to creditors, primarily the holders of municipal bonds. Debt service includes principal, interest and minor incidentals such as agents' fees.

Developer. Any landowner, agent of such landowner or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Development plan. The provisions for the development of a tract of land, including a subdivision plat, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities.

Easement. A right-of-way for public or quasi-public use. Normally, they are used for utilities, bridle paths, parkways, floodways, scenic uses, and other purposes. The fee title to land in the easement areas remains tied to the adjacent land, and the easement rights are relinquished when the public or quasi-public use ceases.

Effluent. A term applied to the water discharged from a sewage treatment device.

Eminent domain. The concept of the power of certain governmental entities to acquire, for public use, privately owned real estate, by means of legal processes and adjudicated compensation to the private owner.

Executive. The power to carry out laws and functions, veto legislation, appoint planning commissioners and perform other duties as prescribed by law. If a municipality has a city manager, the administrative portion of the executive function is the responsibility of the manager.

Executive session. A meeting closed to the public; they can legally be held only for certain purposes.

Feasibility study. A preliminary survey to determine the design, aesthetics, construction and economic aspects of a proposed project.

Flood plain. The area along a natural watercourse subject to periodic overflow by water.

General fund. Used to account for all revenues and the activities financed by them, which are not accounted for in some special fund.

General obligation bond. A financial instrument giving borrowing power to a municipality, based upon pledging of taxing power to retire the debt and pay interest.

General obligation bond funds. Established to account for the proceeds from bond sales and other revenues properly allocated to these funds and the costs of projects financed by them.

Impact fees. Fees imposed on new development activities as partial financing for public improvements (public streets and roads, publicly owned parks, school facilities, etc.).

Improvements. Those physical changes to the land necessary to produce usable and desirable lots from raw acreage including but not limited to; grading, paving, curb, gutter, storm sewers and drains, improvements to existing watercourses, sidewalks, crosswalks, street signs, monuments, water supply facilities and sewage disposal facilities.

Industrial park. A planned industrial area where consideration has been given to human and aesthetic values, such as vegetation, open space and buffer zones.

Interest arbitration. A process by which an impartial third party decides the content of a collective bargaining agreement when the employer and the employee group reach impasse in negotiations. Pertains only to full-time fire departments and police departments in cities with greater than 2,500 population.

Job description. An outline of the duties assigned a class of personnel positions together with the training and experience normally required to qualify for the class.

Judicial. The power to judge, to administer justice and interpret laws and ordinances.

Land development. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving (a) group of two or more buildings or (b) the division or allocation of land or space between or among two or more existing or prospective occupants to include streets, common areas, leaseholds, condominiums, building groups or other features; a subdivision of land.

Legislative. Pertaining to the power to make laws as opposed to administrative, executive and judicial.

Mayor. The chief executive of the city in the strong-mayor form, the ceremonial head in a council-manager form.

Meeting. A gathering of elected officials set or called in accordance with prescribed laws or charter provisions and where business may be transacted.

Mill. A property tax equal to one dollar of tax per one thousand dollars of assessment.

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Nonconforming use. A use, whether of land or of structure, not complying with the applicable use provisions in a zoning ordinance or amendment.

Nonconforming structure. A structure or part of a structure manifestly not designed to comply with the applicable use provisions in a zoning ordinance or amendment as enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment to its location. Such nonconforming structures include, but are not limited to, nonconforming signs.

Official. A person who occupies a municipal legislative, judicial, administrative, executive or enforcement position.

Ordinance. A law or statute enacted by a city, town or county. See Resolution.

Personnel system. A method of recruiting, selecting and promoting people to perform the work of a municipal organization and the method of classifying and assigning pay scale to their jobs together with related personnel activities concerning hours of work, training, grievance procedures, and union relationships.

Planned residential development (Planned unit development). An extension of cluster development including detached, semi-detached, attached and multi-storied structures, and may include land uses other than residential to the extent they are designed to serve the residents.

Planning. A process of deciding what is to be done and how it is to be accomplished; the process of deciding how land should be used and where public facilities should be located.

Planning commission. A planning agency, authorized by law to prepare and recommend plans for the development of physical, social, economic and cultural resources/facilities within a city.

Plat. The official map of a subdivision of land.

Public hearing. A meeting or portion of a meeting set up to give members of the public a chance to speak on a particular subject such as a proposed ordinance.

Regulation. A rule, procedure or other formal requirement passed to carry out the purpose of the law. It carries the same legal power as the law. However, the rule or formal requirement may only be used to carry out the purpose of the law under which it is passed.

Revenue bonds. A borrowing tool with higher interest rates than general obligation bonds, but does not need voter approval. Based on a revenue-producing project and not municipal taxing power.

Resolution. An act that is typically less formal than an ordinance, expressing the opinion or mind of the legislative body, and generally dealing with matters of a special or temporary character.

Revisions. Written or added changes, corrections or improvements to a plan, specification or drawing.

Revolving funds. Special purpose funds providing a constant source of funds for assessable public improvements. General obligation bonds, repayable from general revenues, as well as assessed taxes, may be used as sources for establishing such a fund.

Right-of-way. The right of passage over the property of another. The public may acquire it through direct dedication from land subdivision or through implied dedication – accepted access over a period of time to a beach or shoreline. The pathways over which utilities and drainage ways run are often referred to as easements.

Sinking fund. Established to account for the accumulation of money providing for the retirement of bonds and the payment of interest.

Soil percolation test. A field test conducted to determine the absorption capacity of soil to a specific depth in a given location for the purpose of determining suitability of soil for on-site sewage disposal.

Special assessment bond funds. Similar to general obligation bond funds, however, the cost of public improvements provided by the bond proceeds are assessed against owners of properties benefited by the improvements.

Special revenue funds. These funds are established to account for revenues specifically raised for a particular purpose. A special fund is usually created for each purpose (light tax fund, water tax fund).

Specifications. The written instructions which accompany and supplement the drawings in a contract.

Subdivision. The division of a single tract or other parcel of land into two or more lots. (Specific definitions will vary in specific ordinances or regulations.)

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Subdivision and land development regulations. Procedures and requirements which must be met before the subdivision or development of land is permitted.

Taking. Subject to much litigation and court interpretation, this term refers to the taking and appropriation of private property for public use, with "just "compensation paid to the property owner.

Temporary funds. Created to accommodate a specific need that may arise. Must include a system of complete accountability and be closed promptly upon completion of its purpose. Remaining assets should be distributed in accordance with the intentions of the elected officials as set forth at the time the fund was created.

Urban growth area. Areas defined, under the Growth Management Act, by cities and counties for projected growth and provision of urban services.

Utility funds. These funds account for the financial transactions of utility services rendered to the general public financed by specific user charges (water fund, electric fund, sewer fund).

Variance. The permission granted by a city council, board of adjustment or hearing examiner, following a public hearing, for an adjustment to some regulation in a zoning ordinance to alleviate an unnecessary hardship. The permission granted must not be contrary to the public interest and maintain the spirit and original intent of the ordinance.

Zoning. The regulation by a municipality (city, town, or county) of the use of land within its jurisdiction, and of the buildings and structures located thereon, in accordance with a general plan and for the purposes set out in the enabling statute.

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AWC
ASSOCIATION OF WASHINGTON CITIES

Association of Washington Cities
1076 Franklin St. SE
Olympia, WA 98501-1346
360.753.4137 or 1.800.562.8981

www.wacities.org

MRSC

Municipal Research and Services Center
2601 Fourth Ave., Suite 800
Seattle, WA 98121-1280
206.625.1300 or 1.800.933.6772

www.mrsc.org

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original

JANUARY 13, 2025 Vancouver City Council meeting ~ ~ ~

I am requesting that the following emails be put on RECORD and to the minutes of the Vancouver City Council meeting of January 13, 2025.

- I will state a Thank You to Sarah as she now has mentioned that I can email her immediately if I have issues as I Speak over the phone at times. I also will make note that I DID NOT receive a second email for that meeting as Sarah stated she sent to those who signed up to Speak such as Myself. But I will also state that this is the fifth time that I was unable to Speak at a meeting and should it happen again ~ I am now
- REQUESTING that Sarah Dollar call Me immediately on My cell phone number that is accessible to her; and let Me know if and when there will be issues for those of US who call in to Speak at Council meetings. I will greatly Appreciate that call; as this is the Cities issue and not under My control. Thank You and I'm Hoping for a Wonderful, Constitutional Godly New Year Amen.

Kimberlee Goheen Elbon

[redacted] (do not black out My email)

RE: Form Submission: Council Meeting Testimony Registration

From: Dollar, Sarah (sarah.dollar@cityofvancouver.us)

To: [redacted]

Date: Monday, January 13, 2025 at 10:35 AM PST

Hello,

Your message has been received and forwarded to the City Council for their consideration.

As for the issue with the meeting you were on, there were technical difficulties and an email with the new meeting credentials was sent to those signed up for remote testimony a little after 5 pm. In the future, please be aware that you can email me if you are having trouble with the login. You also have the ability to join the meeting in person or submit written public testimony to provide your comments to the City Council.

Thank you,

Sarah Dollar | Executive Assistant to the City Council
Pronouns: She/Her/Hers
CITY OF VANCOUVER, WASHINGTON
City Manager's Office (CMO)
Primary (Cell): 360-624-2949 | **Desk:** 360-487-8641
www.cityofvancouver.us

From: Kimberlee Elbon [redacted]
Sent: Saturday, January 11, 2025 12:11 PM
To: Dollar, Sarah <Sarah.Dollar@cityofvancouver.us>; Kimberlee HOME HOME Elbon [redacted]
Subject: Re: Form Submission: Council Meeting Testimony Registration

CAUTION: This email originated from outside of the City of Vancouver. Do not click links or open attachments unless you recognize the sender and know the content is safe.

God Day ~ THIS EMAIL is to be sent also to all Council Members and the City manager !!! I intended to write this sooner - I was on the phone at the Vancouver City Council meeting January 6, 2025 a Monday and WAS NOT CALLED !!!!!!! I know My phone number shows up and I consider this continuous VIOLATION a strategy to stop Me and My First Amendment Rights to SPEAK !$!$

This was the first meeting of the New Year and I'm very upset that this happened again !$!$

2 of 5

I am now making a request/demand to the Council to allow Me those lost three minutes at the next City Council meeting this January 13th !!! Good Faith towards Me will be noticed and so will the denial of this extra three minutes as I will make a record either way !!! We'll see how the new manager handles this issue !$!$

THIS VIOLATION MUST NOT HAPPEN AGAIN !!!

I am also signing up at this time for January 13, 2025 Monday VCC meeting - Speaking on Community Communications 1-5 and Public Hearings 6-7. I will be virtual again.

Kimberlee Goheen Elbon

[redacted]

[redacted]

Sent from my iPhone

On Jan 6, 2025, at 12:23 PM, Dollar, Sarah <Sarah.Dollar@cityofvancouver.us> wrote:

Good morning,

Thank you for registering to testify under Community Communications Items 1-12 and Public Hearings regarding Item 13 at the Vancouver City Council meeting this evening. Tonight's Council meeting will be conducted remotely over GoToMeeting. Instructions for connecting to the virtual meeting environment are below. ***Please note – a password will now be required to access the virtual meeting environment on a computer or mobile device.***

If you no longer wish to provide testimony during tonight's meeting, please respond to this email a.s.a.p. to be removed from the list.

Please try to connect to the meeting between 6:00 p.m. and the time listed below, and no later than 6:30 p.m. Participants who connect after the meeting begins at 6:30 p.m. may not be able to speak during this meeting.

1. **Connecting with a computer, tablet or smartphone** – ***please connect by 6:20 p.m.***

3 of 5

1. Click on this link to connect: https://meet.goto.com/819166269
2. Enter the password: 2025-Jan
3. Follow the prompts to enter your name for identification purposes. Please use the same name you registered under.
4. You will have the option to use audio directly through your device, or to call in from a phone (see phone number and access code below).
5. You will automatically be muted when you enter the meeting. Please remain muted **with your webcam (if available) off** until your name is called by the Mayor at the time of testimony.
6. **The Mayor will call your name when it is your turn to testify. Please unmute yourself at that point.** You may also turn on your webcam at this point, if desired.
7. Please keep your comments to 3 minutes or less.
8. You will be muted once your comments have concluded.
9. **Please turn your webcam back off** once you have finished your testimony.

TIP: If you have the live television or Facebook coverage on in the background, please mute the device it is playing on.

2. **Connecting by telephone only – *please call in by 6:15 p.m.***

a. Call: 1 877 309 2073

b. Enter access code 819-166-269# when prompted

c. You will be given the option to enter an audio PIN. You do not need a PIN for this meeting. Press # when prompted.

d. You will hear a chime when you have entered the meeting. Please state your name when you enter the meeting so a staff member can identify you.

e. Once you have been identified, you will be placed on mute until your name is called by the Mayor at the time of testimony.

f. The Mayor will call your name when it is your turn to testify, and staff will unmute your line at that point.

g. Please keep your comments to 3 minutes or less.

h. You will be muted once your comments have concluded.

TIP: Please be sure your phone is not on speaker to avoid extraneous noise on the call. If you have the live television or Facebook coverage on in the background, please mute the device it is playing on.

Sarah Dollar | Executive Assistant to the City Council

Pronouns: She/Her/Hers

CITY OF VANCOUVER, WASHINGTON

(4) of 5

City Manager's Office (CMO)

Primary (Cell): 360-624-2949 | **Desk:** 360-487-8641

www.cityofvancouver.us

From: City of Vancouver, WA <noreply@cityofvancouver.us>
Sent: Monday, January 6, 2025 10:43 AM
To: Dollar, Sarah <sarah.dollar@cityofvancouver.us>
Subject: Form Submission: Council Meeting Testimony Registration

Council Meeting Testimony Registration

Name

Kimberlee Gohgeen Elbon

Address

n/a
LA Center, WA
United States
Map It

Email

[redacted]

Phone

[redacted]

Topic I wish to speak about

Community Commination's Items #1-12
Public hearing #13

I plan to attend the Council meeting

Remotely

5 of 5