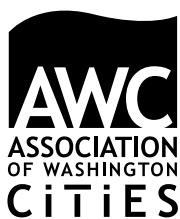


Councilmember's

handbook



Councilmember's Handbook



Association of Washington Cities, Inc.
1076 Franklin Street SE
Olympia, WA 98501
(360) 753-4137
www.awcnet.org



Municipal Research and Services Center
of Washington
2601 Fourth Avenue, Suite 800
Seattle, WA 98121-1280
(206) 625-1300
www.mrsc.org

MRSC Report No. 48, revised
December 2011

Councilmember's Handbook

Copyright © 2009 by Association of Washington Cities, Inc. and Municipal Research & Services Center of Washington

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior written permission of the Association of Washington Cities, Inc. or Municipal Research & Services Center of Washington.

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

Association of Washington Cities, Inc.
1076 Franklin St. SE, Olympia, WA 98501
(360) 753-4137
1-800-562-8981
www.awcnet.org

MRSC's mission is working together for excellence in local government through professional consultation, research and information services.

Municipal Research & Services Center of Washington
2601 Fourth Avenue, Suite 800
Seattle, WA 98121-1280
(206) 625-1300
www.mrsc.org

Update November 2011

Foreword

This publication is designed primarily for councilmembers, particularly newly-elected or appointed councilmembers. It contains a brief overview of the structure of municipal government in Washington State, and the role of the councilmember in that structure. The primary focus of this publication centers on the council meeting, which is where the formal role of the councilmember is normally exercised. No one publication can answer all of your questions, but hopefully this booklet will provide some guidance in regard to legal rules that affect conduct of the council meeting, as well as other procedural considerations that might make the meeting more productive. Supplemental sources of information on specific topics are listed throughout this publication.

We particularly acknowledge the assistance of Patrick Mason and Jim Doherty, Legal Consultants, and to Carol Greene (retired) and Deanna Krell, AWC, for their work in the development of other publications, from which this handbook has been derived. Thanks is also given to Paul Sullivan for his work.

Please accept our congratulations for assuming the responsibility and challenge of governing, and our best wishes for a productive term of office!

Mike McCarty, CEO
Association of Washington Cities

Tracy Burrows, Executive Director
Municipal Research & Services Center of Washington

Table of Contents

Chapter 1 – Introduction.....	1
Chapter 2 – Know Your Form of Government.....	3
Chapter 3 – Getting Started	7
Chapter 4 – The Job of a Councilmember	11
Chapter 5 – Budget Basics.....	17
Chapter 6 – Resolving and Preventing Mayor-Council Conflict.....	23
Chapter 7 – The Council Meeting.....	31
Chapter 8 – Citizen Participation at Council Meetings	39
Chapter 9 – Ethical Issues.....	41
Chapter 10 – Resources.....	43
Appendix 1 – Open Public Meetings Act.....	51
Appendix 2 – Sample City Council Rules of Procedure for Mayor-Council Code Cities.....	53
Appendix 3 – Public Hearings	61
Appendix 4 – Sample Procedures: Appearance of Fairness and Quasi-Judicial Hearing.....	63
Appendix 5 – Meeting Tips	67
Appendix 6 – Parliamentary Procedure.....	69
Appendix 7 – Keeping Out of Trouble	73
Appendix 8 – Initiative, Referendum, and Recall.....	75
Appendix 9 – The Mayor Pro Tempore.....	77
Definitions	79
Local Government Acronyms	83

Chapter 1

Introduction

It's no wonder that 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 councilmember, and also 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 which magically happens just because you are elected to office. Leadership skills must be learned. You will need to listen to the residents of the city, develop goals, then work effectively with the council 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 has already dealt with the same issue.

Chapter 2

Know Your Form of Government

Do you know your city's "classification"? It is important to know, and to know why that is so crucial. 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 inform you of your city's classification.

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 below in the section on "Forms of Government."

City classification

There are four basic classifications for municipalities in the State of Washington: first class cities, second class cities, towns, and code cities.

Though 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, or RCW, is the compilation of the laws passed by the state legislature. When "statutes" are referred to, that means 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 1967.²

4 classes of cities

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

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

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

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.

The optional municipal code, RCW 35A, was devised 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 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.

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

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.”

Mayor-council form of government⁴

In the mayor-council form, policy and administration are separated. All legislative and policy-making 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 policy-making 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-.33 Optional Municipal Code cities).

Commission form of government

Only the city of Shelton has the commission form, which 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 his or her own department (RCW 35.17).

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.

3 forms of government

- Mayor-Council
- Council-Manager
- Commission

Additional resources:
**Directory of Washington
City & Town Officials**
MRSC, 2008

Lists each Washington city with address, phone number, population, class of government, and principal city officials.

Code City Handbook
MRSC, 2009

Town Handbook
MRSC, 1992

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 non-charter 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	Commission	Total
First	6	4	0	10
Second	10	1	0	11
Town	72	0	0	72
Code	138	48	1	187
Unclassified	1	0	0	1
Total	227	53	1	281

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

Chapter 3

Getting Started

So now you're a councilmember

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 on a city board or commission, or were elected with no prior background in city government, there's still a lot to learn.

As a new 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 fun as well as a rewarding experience.

Your first days on the job

Some new councilmembers are overwhelmed at first by all they need to learn and the amount of time involved. And others are surprised to discover 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 for a new councilmember should be a thorough orientation session – a broad overview of the functions of the city, including finance, public works, public safety and other departments. Sit down with your mayor or city manager, and, with his or her authorization, the clerk, attorney and other 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 you with the city's operations.

Review key documents

Here is a list of key documents you will want to review. Ask your clerk or other staff if they exist and to provide them for you, and to suggest other useful documents.

- Current operating budget and capital budget
- 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 (if they exist)

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 hate you personally, they just don't like your ideas.

- Council rules/meeting procedures
- Meeting minutes for last twelve months
- Work program and significant staff reports from last twelve months
- Personnel 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. Find out about council salaries and benefits, proposed development projects – anything you need to know for a better understanding of city operations and issues currently facing your community.

Keeping some perspective ...

- The job of councilmember 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.

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.

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 and treat them with respect.

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 councilmember.

Take it slowly

Resist the urge to recommend drastic changes in 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 a potentially fine public servant has come to an unhappy ending because of errors in judgment he or she made by being overly aggressive during those first six months.

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 the public.
- 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.

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.
- **Carry a notebook around for the first six months** and write everything down.
- **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 you can 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 a better appreciation for those who came before you.
- **The job can be very complex** – try to stay focused on the big issues.

Learn from others...

- **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** – they have many of the same problems.
- **Network with others in the same boat.** Meet with elected officials from neighboring communities, for example. They can provide support, new ideas, and give you an opportunity to vent.
- **Find an experienced mentor on the council.** 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.

Chapter 4

The Job of a Councilmember

The principal job of a city or town council is to make policy. A policy is a course of action for a community. Policy-making 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, citizens' 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 it. 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, that actually sees that the policies are implemented. 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 citizen 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, keeping 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 in arranging for the provision of legal services through a contractual arrangement. Regardless of how the position is established, remember that though 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 of the 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.

Neither the mayor nor the city manager can prohibit the council from having access to 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 city attorney services are provided.

Some smaller cities try to minimize their fees for legal services by not having the city attorney regularly attend 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.

Personnel 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 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 state-wide 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.

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 council members 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 prior to action being taken. The mayor and councilmembers should be careful to not discuss specific cases outside of an executive session.

An ordinance is a local law of the city.

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

Local laws – ordinances and resolutions

How does the council adopt policy? Typically, a council will adopt policy through the passage of 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 may be 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 and may be no more than an expression of the opinion of the official body. Legislation must be enacted via ordinance. Deciding in any particular case 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, a good first step is to refer to the city charter and state law (RCW's). Some state statutes leave the form of action to be employed 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 adoption of ordinances. 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 Report No. 50, which is entitled Local Ordinances - The Drafting, Compilation, Codification and Revision of Ordinances.

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 in regard to adoption requirements for ordinances.

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 into action by the strong demands of 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 – 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 an elected official'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.
- You won't be able to satisfy all of the people, and you have to know that. Listen fairly. .listen 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 opportunities and the personal contacts can be invaluable to your city.

**“We’re busy electing
barometers, when what
we really need are
compasses.”**

Author unknown

Chapter 5

Budget Basics

The budget is one of the council's strongest policy-making tools. Spending guidelines are a reflection of numerous policy decisions. The budget message can give a new councilmember 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, as well as being required by law, because of the many policy decisions involved. Once a budget is adopted, 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 council deals with three types of budgets:

- An operating budget for delivering services like police, fire, parks and library. The operating budget enables you to set policy. When most citizens 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 provided by the city, 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.
- A capital budget that 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 are allowed to use either annual or biennial budgets but most use an annual budget.

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.

Additional resources:
**Budgeting for Cities and
Towns in Washington State**

AWC & WA Finance Officers
Assn, 2002

**Budget Suggestions for
2010**

MRSC, 2009

**A Debt Primer for
Washington's Cities and
Towns**

MRSC, 1994

**A Revenue Guide for
Washington's Cities and
Towns**

MRSC, 2009

Budgeting methods

Cities and towns use three budgeting methods: line-item or incremental, program and zero-base.

- **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.
- **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 is more staff intensive.
- **Zero-base budgeting** is a non-traditional 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 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.

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.

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.

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 are the factors impacting future revenue flows, and what is 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.

Implementing the budget

The mayor or city manager implements the budget adopted by the council and provides the council with periodic reports showing, on a monthly or quarterly basis, accrued revenues and expenditures, and a comparison of budgeted revenues and expenditures.

Each city is audited by the state auditor. The audit reports may be the best source of information on cash balances, revenues, expenditures and, in some instances, past budgets. Irregularities in budgeting and expenditure practices are reported. A copy of the report should be on file in your city's administrative office.

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 has to 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!

Budget do's & don'ts

Do:

- Find good basic training. (AWC offers the Municipal Budgeting and Fiscal Management workshop every year.)
- 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.

Chapter 6

Resolving and Preventing Mayor-Council Conflict

It is essential for councilmembers to understand their role and how it relates to the roles of mayor or city manager and staff. Many conflicts in city governments are the result of confusion as to these roles and the consequent overstepping of 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 are also some variation in the powers and duties of mayors and councils between classes of cities; you need to 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 the Congress; the mayor or manager, like the governor and the President, heads the executive branch; and the municipal court (or the district court by contract) exercises judicial functions, although in a much 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.

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.

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.

- 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.

The mayor or city manager's authority

As the chief executive and administrative officer of the city, the mayor 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 is in charge of hiring and firing all appointed officers and employees, subject to civil laws, where applicable. Except for those in towns (fourth class municipalities), 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.

In general, the mayor 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 council on the financial and other affairs and needs of the city.
- Perform as ceremonial head of the city.
- Approve or disapprove all official bonds and contractor's bonds.

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.

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 in some situations is not very clear.

One frequent source of conflict is personnel matters. The council may not like a mayor's or 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 his or her supervision of employees and hiring and firing authority.

The mayor or city manager may direct that all communications with city staff go through his or her 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 executive's 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 or manager 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 establishing specific qualifications for positions, requiring publication and public posting of job opening announcements, and the like. Moreover, the mayor or 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 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 - the council (and the mayor/manager) may not do indirectly what it cannot do directly.

Council and staff communication

On the issue of communication between the council and city employees, the mayor or manager may not prevent councilmembers from gaining information, although he or she could reasonably regulate the process by which requests are made. If councilmember inquiries of city employees are interpreted as harassing or unreasonable, the executive may choose not to take them away from their duties and may require those inquiries to be channeled through the appropriate staff office, if that can be done without unduly encumbering council access to information.

Conflict in the finance arena

Finance and budgets is another fertile area for conflict. For example, the mayor/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/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/manager may not pay an employee less than that authorized by the council in the budget or in a separate salary ordinance, he or she, under certain financial circumstances, 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/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/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, city managers and staff can better fulfill their roles as public servants.

Additional resources:
Directory of Retreat
Facilitators
AWC, 2009

Conclusion

No matter what its classification is, or what form of government a city or town operates under, the job of a councilmember is to make policy for the governance of the city and its citizens. Policy-making is not a theoretical exercise that takes place high in an ivory tower, though. It involves practical, common-sense decisions and solutions for everyday problems. The principal forum for local government policy-making is the city or town council meeting, so our next subject is the city council meeting.

Questions & answers

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.

Additional resources:

Councilmember's Handbook
MRSC/AWC, 2009

Knowing the Territory- Basic Legal Guidelines for Washington City, County, and Special District Officials
MRSC, 2009

The Authority of the Legislative Body to Regulate Administration of City Business [code cities]
by Susan Rae Sampson, Legal Notes, MRSC, 1990

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

Franklin D. Roosevelt

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 all such training?

A. Because the council controls the budget, sets policy and approves contracts, the council could prohibit expenditures for such training. 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 ...

- **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,** especially new ones who come on board with an agenda. Keep that door open.
- **Address conflict head on.**

Roles of the Mayor and Council

Policy making & implementation

Mayor	Council
<ul style="list-style-type: none"> • Keep council informed on city affairs. • Propose policy. • Implement policy adopted by council. • Report back to council regarding policy implementation and possible improvements. 	<ul style="list-style-type: none"> • Listen to city residents – keep track of their concerns and wishes. • Discuss, develop, and adopt city policies governing many aspects of city operations.

Personnel matters

Mayor	Council
<ul style="list-style-type: none"> • 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 member of negotiating team). 	<ul style="list-style-type: none"> • 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	Council
<ul style="list-style-type: none"> • 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 has to deal with budget problems. 	<ul style="list-style-type: none"> • 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	Council
<ul style="list-style-type: none"> • Prepare agenda, preside over meetings, report to council on matters involving city administration, propose policy initiatives or changes. • Vote on measures to the extent allowed by the statutes. Veto ordinances, as permitted by statutes. • As presider, facilitate an orderly meeting process. 	<ul style="list-style-type: none"> • 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	Council
<ul style="list-style-type: none"> • 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. 	<ul style="list-style-type: none"> • 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	Council
<ul style="list-style-type: none"> • Sign contracts, supervise contract performance, enforce contracts. 	<ul style="list-style-type: none"> • Approve contracts and all city expenditures.

Relationships with other entities

Mayor	Council
<ul style="list-style-type: none"> • Represent city as official spokesman, in accordance with views or goals set by council. • Act as official head of city for ceremonial events (ribbon cuttings, sister-city contacts, etc.). 	<ul style="list-style-type: none"> • 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.

Chapter 7

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.

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. 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.

The agenda

Perhaps one of the most crucial tools in providing for orderly meetings is a well-organized and well-prepared agenda. The agenda must be handled so that councilmembers are given adequate information, in advance, on items to be considered.

While it is not mandatory at a city council meeting, opportunity should be provided for appropriate public participation. State law requires each city to establish a procedure for notifying the public of the agenda for forthcoming council meetings. Items on the agenda should be prioritized and organized as efficiently as possible, allocating adequate time to major issues and minimizing time spent on trivial, non-controversial issues. Citizens should also be given the opportunity to address the council on other subjects of interest.

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 upon council input. Some cities assign this task to an agenda committee or to one councilmember who assists the mayor or manager. The council can change its order of business or a councilmember can propose an additional new item of business.

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

Additional resources:
Robert's Rules of Order

**The Standard Code of
Parliamentary Procedures**

Alice Stargis, 3rd edition

Council rules of procedure

It is up to every council to establish rules for the conduct of their meetings. Some councils adopt standard rules, such as Robert's Rules of Order or some other parliamentary procedure; others develop their own customized bylaws which govern how council meetings proceed. Local rules are valid as long as they don't infringe on constitutional rights or conflict with state law. (See Appendix 2 for Sample Council Procedures.)

Parliamentary procedure

Parliamentary procedure is the set of rules or customs that regulate the procedure of deliberative assemblies. There is no need to be intimidated - a councilmember need not become a certified Parliamentarian to effectively use the basic rules of procedure. Observing parliamentary procedure makes council meetings more efficient and reduces the chances of council actions being declared illegal or challenged for procedural deficiencies. A city may adopt, by ordinance or resolution, a set of procedural rules or may employ standardized rules such as Robert's Rules of Order. (See Appendix 6 for a summary of parliamentary procedure.)

Streamlining council meetings

Even the best-planned council meetings can deteriorate into endurance contests. These are not always the most 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. 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 by each major agenda item. This information is also useful to citizens attending the meeting.

If the problem is created by a talkative councilmember, a simple statement by the mayor that "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 keeping things off of it that don't belong there. The formal 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.

Too many items on the agenda is a frequent cause of lengthy council meetings. Perhaps the agenda is loaded down with detailed items that are included for reasons of custom, rather than necessity, and many of these could be handled by staff without council action. If too much time is needed to explain the various agenda items, it may help if more complex ones are explained in writing in advance of the meeting.

“Consent” agendas

The consent agenda is a tool used to streamline council meetings. Routine, non-controversial items are listed collectively on the agenda and are passed with a single motion and vote.

- In some cities, the actual items to be placed on each consent agenda are selected at a weekly city department heads’ meeting. In others, an agenda committee chooses the consent items.
- Commonly, no debate is allowed on the consent agenda or on any item included in it. The motion for adoption must receive unanimous approval.
- 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 usually requires preliminary action by the council in the form of adopting an ordinance or resolution, but a consent agenda can be used by most councils on a trial basis.

Council work sessions

Informal work sessions of the council may be needed from time to time to study certain matters in detail. These are most 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 I, 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 non-members 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.

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 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 his or her 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 2, 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. Participation by speaker phone is a possible alternative; discuss this issue with your city attorney.

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 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 form

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

Mayor's veto power

- In **Charter Cities**, each city charter governs the veto powers of the mayor.
- **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).

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 are to be opened 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. 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 such circumstances, it is up to the council whether they wish to continue dealing with business.

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. 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.

Practical Advice

Helpful pointers from other elected officials.

Meeting survival tips ...

- **Laugh together**, share dreams, and tell stories on yourself. Bring donuts.
- **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 the council meetings.** Be courteous to members of the public; let them know you appreciate their comments.
- **Don't spring surprises on fellow 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.

Chapter 8

Citizen Participation at Council Meetings

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

The “citizen participation” period is a time slot set aside on the agenda for citizens 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 citizen participation. Many councils put this item toward the top of the agenda, so that citizens can make an appearance early in the meeting and then go about their business. Other councils reserve a place for citizen presentations at the very end of the agenda, while others make no provision at all. 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.

Move the agenda along

To move the agenda along, some councils limit the length of time any one citizen may speak from three to five minutes, and permit this to be extended only by a two-thirds vote of the council.

Don't allow verbal exchanges to drag on between citizens and councilmembers, especially if they concern administrative problems that can be solved by the staff during regular city hall hours. Also, if speakers take too much time or engage in personal attacks on councilmembers, it may be necessary for the mayor to cut them short. Councilmembers are expected to be polite to citizens appearing before them, but there is no requirement that they subject themselves to intimidation by rude speakers.

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

Additional resources:
Governments are from Saturn ... Strategies for Reconnecting Citizens & Government
MRSC, 1998

Dealing with critics and pressure groups

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

Providing a fair hearing of issues at council meetings assures that the needs of pressure 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 contained or spills over to other issues.

How to deal with criticism:

- **The governing body should listen actively to its critics** – listen to learn and understand, not to argue, dispute or to silence those critics. Attempt to find some area of agreement by sorting out the issues into those that can be dealt with and those that are outside the scope of authority or the range of possibility to be resolved.
- **The council's spokesperson should express regret that the problem has arisen.** It is helpful to state that you understand how the person or group feels. Perhaps you might even restate their concerns. If you feel personally attacked, it is OK to say that you feel hurt by the comments.
- **At some point, the council's action must be defended.** Try to help people understand the factors that influenced the council, or discuss the parameters that will influence an impending decision which is under attack.
- **When attacked, think carefully before responding.** Know your facts. Be truthful. Credibility is your most important asset in dealing with your critics.
- **Don't belittle small but vocal sources of opposition.** Don't label people.
- **Remember that groups which are fostering a narrow self interest will self-destruct** through an inability to gain mainstream support. Don't overreact.
- **Keep in mind that anger is directed at your role,** not at you as an individual. Last but not least, while remaining respectful, keep a sense of humor.

Chapter 9

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, fax and computers.** Using official equipment for personal purposes.
- **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 off-color jokes at meetings, improper comments or touching of staff.

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 his or her position to secure special privileges or exemptions for himself, herself, 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 him or her to disclose confidential information acquired by reason of his or her position.
- Disclosing confidential information gained by reason of the officer's position, or use of such information for personal gain.

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

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

Additional resources:
Knowing the Territory
MRSC, 2009
Sample Ethics Codes
MRSC website

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 some exceptions, 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. Is a councilmember 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 a councilmember 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. (If a city has a population of 10,000 or more, officials are prohibited from having any contractual interest.) 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.

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 \$18,000, 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 \$18,000 (RCW 42.23.030). In cities having a population of 10,000 or more, the allowable contract amount is zero!

Chapter 10

Resources

Who to contact when you need help

Municipal Research & Services Center (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. And if you have access to the Internet, MRSC has a great Web site, containing a wealth of information relevant to local governments in Washington State. The site also includes links to other useful Web sites such as State agencies.

MRSC

2601 Fourth Ave, Suite 800
Seattle, WA 98121-1280
(206) 625-1300
Toll-free 1-800-933-6772
Fax (206) 625-1220
mrsc@mrsc.org
www.mrsc.org

Association of Washington Cities (AWC)

In addition to representing the collective voice of cities before the state legislature, AWC coordinates valuable training, including an annual conference for city officials. Staff offer technical assistance in the areas of personnel and labor relations, budgeting, energy, transportation, planning, wellness and general government. AWC also administers an employee benefit trust and a property/liability insurance program.

AWC

1076 Franklin Street SE
Olympia, WA 98501-1346
(360) 753-4137
Toll-free 1-800-562-8981
Fax (360) 753-0149
www.awcnet.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 elected official with a neighboring city (really, 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 or 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.

MRSC Publications

Copies of the following MRSC publications have been mailed to your city at one time. Check with your city clerk to locate the document. If you can't find it, call MRSC (Municipal Research and Services Center) at (206) 625-1300. Talk with the receptionist concerning availability and cost of the publication. MRSC can fax or mail an order form to you.

The Appearance of Fairness

Doctrine in Washington State

MRSC, 1995

Overview of the appearance of fairness statute, including suggestions for assuring compliance, commonly asked questions, and a summary of cases.

Budget Suggestions for 2012

MRSC, 2011

Annual publication with suggestions to assist in the preparation of the budget, including the budget calendar, summary of state-collected, locally-shared revenues, CPI and IPD information, distribution of fire insurance premium tax, sales tax estimates, expenditures of cities, sales tax equalization forecast, and summaries of new fiscal legislation.

Chief Administrative Officers in Washington Local Government

MRSC, 1986

Intended for use by officials in mayor-council cities who may be interested in establishing a chief administrative officer (CAO) position.

Code City Handbook

MRSC, 2009

Outlines powers and duties of code city officials.

Council-Staff Retreats

MRSC, 1987

Contains a list of written material and several sample agendas from council-staff retreats.

A Debt Primer for Washington's Cities and Towns

MRSC, 1994

Introduction to the various aspects of municipal debt financing. Includes chapters on debt limits, debt management policies, bond issues, and the debt issuance process.

Directory of Washington City & Town Officials, 2010-2011

MRSC, 2010

Listing of the names of key municipal officials, city hall addresses and phone numbers, e-mail addresses, population, and class of government.

Governments are from Saturn

... Citizens are from Jupiter:

Strategies for Reconnecting

Citizens and Government

MRSC, 1998

Focuses on examples of successful strategies cities have used to reconnect citizens with government and to rehabilitate government's tarnished image.

Knowing the Territory: Basic Legal Guidelines for City, County, Special District Officials

MRSC, 2009

Do's 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. Also points out immunities and protections for public officials.

Mayor's Handbook

MRSC/AWC, 2009

Guide for mayors in Washington cities and towns operating under the mayor-council form of government, with a focus on presiding over council meetings, conducting public hearings, etc.

The Bidding Book for Washington Cities and Towns

MRSC, 2009

Description of various bid laws, including bid limits, exceptions and points on the bidding process. Includes sample ordinances and resolutions.

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

MRSC, 2008

Detailed discussion of the requirements under the Open Public Meetings Act, including executive sessions, appearance of fairness, and quasi-judicial hearings.

Public Hearings: When and How to Hold Them

MRSC, 1998

A good overview of what is required for public hearings, including a typical script for the chair and tips for a successful hearing.

Public Records Act for Washington Cities, Counties and Special Purpose Districts

MRSC, 2009

Discusses all the statutory disclosure exemptions, as well as the mandatory procedures for responding to public disclosure requests. Common questions and answers are included.

A Revenue Guide for Washington's Cities and Towns

MRSC, 2009

Describes the major, and many of the minor, revenue sources that can be used for general government purposes. Includes common questions & answers.

Town Handbook: Handbook for Washington Town Officials; Municipalities of the Fourth Class

MRSC, 1992

Outlines powers and duties of town officials and alternatives available under the fourth class form of government.

AWC Publications

These publications are available from AWC (Association of Washington Cities). Your city clerk or other staff should have a copy. If not, call AWC, 1-800-562-8981, for order information.

Budgeting for Cites & Towns in Washington State

AWC and WFOA, 2002

Practical, how-to handbook on the budget process.

Cityvoice

A twice weekly electronic publication that will be sent to all city officials and AWC partners.

Cityvision

Examines municipal issues and trends from a high level, with articles that analyze and offer insight. Creates a voice for city officials providing another leadership tool and resource and builds awareness of city issues with readers outside of city hall.

Directory of Retreat Facilitators

AWC, 2009

Listing of consultants who can serve as facilitators for council retreats.

Forming Successful Partnerships:

A Practical Guide for Local Government

AWC, 2006

Legislative Bulletin

An electronic publication provided weekly throughout the legislative session and monthly the rest of the year. Covers major issue areas and provides quick referencing by issue area. The *Bulletin* is one of AWC's most valuable legislative sources for cities and towns.

Small City Resource Manual

AWC, 2009

An easy to use guide to assist elected and appointed officials to navigate the complexities of policy making; governance and operational matters in a city.

State of the Cities

An ongoing research effort to explore the fiscal health and trends of Washington's cities and towns.

State of the Cities: An update of city infrastructure systems

AWC, 2011

State of the Cities: An update on the fiscal health of cities and towns

AWC, Fall 2009

State of the Cities: Assessing the Health of Washington's Communities

AWC, 2009

State of the Cities: Washington's Invisible Backbone:

Infrastructure Systems in Washington's Cities and Towns

AWC, 2008

State of the Cities: Strong Cities, Strong State: Economic Development in Washington's Cities and Towns

AWC, 2007

State of the Cities: Assessing the Health of Washington's Cities and Towns

AWC, 2005

**Suggestions for Successful
Municipal Leadership**

AWC, 2009

53 ideas on how you can govern better

Tax & User Fee Survey

AWC, 2010

Tax rate and user fee data collected from cities is reported in four individual publications: I. Municipal Tax Rates & Fees, II. Land Use Fees; III. Park & Recreations Fees; IV. Water, Sewer & Stormwater Fees.

**The Ten Commandments of
Community Leadership**

AWC, 2007

**WA State Public Employer
Overtime Guide “FLSA”**

AWC, 2007

Helps public employers through the maze of state and overtime laws.

**Washington City & County
Employee Salary & Benefit Survey**

AWC, 2011

Wage and benefit data from nearly every city and county, covers over 120 job classifications.

Appendices

Appendix 1 – Open Public Meetings Act

Appendix 2 – Sample City Council Rules of Procedure for Mayor-Council Code Cities

Appendix 3 – Public Hearings

Appendix 4 – Sample Procedures: Appearance of Fairness and Quasi-Judicial Hearing

Appendix 5 – Meeting Tips

Appendix 6 – Parliamentary Procedure

Appendix 7 – Keeping Out of Trouble

Appendix 8 – Initiative, Referendum, and Recall

Appendix 9 – The Mayor Pro Tempore

Definitions

Local Government Acronyms

Appendix 1

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, Towns & Counties*.

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 (Attorney General Opinion, 1986 AGO No. 16).

Because the Act is to be liberally construed, meaning that courts will lean towards including borderline meetings, 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 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 they do not

exercise actual or implied decision-making power, unless they are comprised of a majority of the members of a governing body. The Attorney General's office and an appellate court in Washington 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 and conducting collective bargaining sessions.

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.**

Requirements for notice of meetings

- 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, 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 personally or by mail 24 hours in advance, 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.
- Meetings held to deal with an emergency, such as an earthquake or flood, may be held without notice.
- Other statutes require cities to establish procedures for notifying the public of the preliminary agenda for upcoming meetings.

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 an improperly held meeting is punishable by a civil fine of \$100. The party that prevails in an action for violation of the Act may recover reasonable expenses and attorneys’ fees under certain circumstances.

Conclusion

The requirements of the Open Public Meetings Act are pervasive and relatively inflexible. In deciding to hold 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, 2008

Appendix 2

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 web site, or contact the MRSC library to borrow additional sample rules.

City council rules of procedure

I. General rules

- I.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). The journal of proceedings (minute book) shall be open to public inspection.
- I.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.
- I.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 his/her 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.

I.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.

I.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.

I.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 p.m. When a Council meeting falls on a holiday, the meeting shall be held on the next business day. 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.

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) certain specific 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 his 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.

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 Citizens
- (5) Consent Agenda
- (6) Mayor’s Reports
- (7) Department Head/Council Committee/Board/Commission Reports
- (8) Other Business
- (9) Continued Comments From Citizens
- (10) Councilmember Comments
- (11) Adjournment

The Consent Agenda may contain items which are of a routine and non-controversial 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 his/her 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 he or she has been disqualified for a conflict of interest or under the appearance of fairness doctrine. Such member shall disqualify himself or herself 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.

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 his/her 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.

7. Duties and privileges of citizens

7.1 Meeting participation: Citizens are 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 a citizen, 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 Citizens" citizens 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 his/her name and address in an audible tone of voice for the record and, unless further time is granted by the Council, shall limit his/her remarks to three (3) minutes. Agenda items "Comments From Citizens" and "Continued Comments From Citizens" 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.

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 Citizen 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 plus one 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.

Appendix 3

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 citizenry 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 and observe.

A governmental body may permit public participation; however, there is no right of the public neither to participate in the course of a public meeting nor to comment on the subject matter being considered by the governmental body. In contrast, during a public hearing, the public is invited to speak to the council and the council primarily listens and receives public input. No decisions are made during a public hearing.

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 listed above 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.

Appendix 4

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

“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. The 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” (*Zehring v. Bellevue*, 99 Wn.2d 488, 1983).

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

Councilmembers should recognize that the Appearance of Fairness Doctrine does not require establishment of 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.

The Mayor shall have sole authority to request a Councilmember to excuse himself/herself 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 himself/herself 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:

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

- (b) 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 citizen and his or her 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 non-pecuniary 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 he or she 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, 1998

Knowing the Territory

Municipal Research and Services Center

pp. 15-17, 2009

The Appearance of Fairness Doctrine in Washington State

Municipal Research & Services Center, 2011

Appendix 5

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.
- **"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.
- **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 the mayor or city manager 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.

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

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?

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

If You Only Had More Time – But You Don't, International City Management Association.

Appendix 6

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 reduces 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 2, 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.

Use parliamentary procedure

as a tool, not a bludgeon.

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.
- All members have equal rights. Each speaker must be recognized by the moderator prior to speaking. Each speaker should make clear his or her 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.

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 council, 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, non-debatable, 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. 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. This motion should be used instead of “table” to kill a motion, since it can be debated.

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 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 decorum or a non-debatable motion. 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.

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

Request for information. A person may rise to request information that is timely and essential in order to vote, even interrupting a speaker if necessary. Do not allow

members to say “Point of Information” or “Point of Clarification” and then provide information – this can be done only during 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. This motion may be used to take up a motion again at the same meeting. The motion can be made only by a person who voted on the prevailing side earlier on the motion in question, and requires a majority vote in favor to pass. If it is approved, the group returns to debate on the original motion as if no vote had been taken. Ordinarily motions to reconsider may not be made at meetings that take place after the meeting in which the original motion was approved or defeated. Whether the motion to reconsider is debatable depends upon whether the original motion was debatable.

Take from the table. A majority of the group must pass a motion to take from the table. Such a motion is non-debatable. If a motion that has been “laid on the table” is not taken from the table at the same or the next regular meeting, it dies.

Rescind. When the group wishes to annul some action, a motion to rescind is in order at any time, provided that no action has been taken pursuant to the original motion which cannot be changed. 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 either a two-thirds vote or a majority of the entire body.

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 Officials*, National Association of Towns and Townships.

Appendix 7

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*, Report No. 47, 2009.

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 non-elective 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 elective 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 1,000 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.

Salary increases for elective 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.

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 his or her 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 his or her 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)).

Councilmember e-mails subject to public disclosure?

It is important for councilmembers to understand that e-mails 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 . . ." E-mail, 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 e-mail communications between councilmembers, councilmembers and citizens, 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 compose e-mails, recognizing that your audience may ultimately be broader than the direct recipients of your communication.

Initiative, Referendum, and Recall

Initiative and referendum

The powers of initiative and referendum are means by which citizens 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 citizen 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; commission cities - RCW 35.17.240 - .360).

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; and
- 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; and
- 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

Elective officials are subject to citizen 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 his or her 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.

Citizen 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.

Appendix 9

The Mayor Pro Tempore

On occasion, a councilmember may find him or herself 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 his or her 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).

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.

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 2500 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.

Non-conforming use. A use, whether of land or of structure, not complying with the applicable use provisions in a zoning ordinance or amendment.

Non-conforming 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 non-conforming structures include, but are not limited to, non-conforming 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.)

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.

Local Government Acronyms

General terms

ADA	Americans with Disabilities Act
AGO	Attorney general's opinion (state)
ALS	Advanced Life-Support System
BARS	Budgeting, accounting and reporting system (state requirements)
B&O	Business and occupation tax
CDBG	Community development block grant
CFR	Code of Federal Regulations (federal agency rules)
CIP	Capital improvement plan
CMC	Certified municipal clerk
COG	Council of governments
CPI	Consumer price index
CTR	Commute Trip Reduction (state law)
CWA	Clean Water Act (federal law)
E-911	Enhanced 911 communication system
EDC	Economic Development Council
EIS	Environmental impact statement
EMS	Emergency medical service
FLSA	Fair Labor Standards Act (federal law)
FMLA	Family and Medical Leave Act (state and federal laws)
GIS	Geographic Information System
GMA	Growth Management Act
ISTEA	Intermodal Surface Transportation Efficiency Act
LID	Local improvement district
LEOFF	Law Enforcement Officers and Fire Fighters Retirement System

OPMA	Open Public Meetings Act
OSHA	Occupational Safety and Health Act (federal)
PERS	Public Employees Retirement System
PTBA	Public transit benefit area
PWTF	Public Works Trust Fund
PUD	Public utility district
RCW	Revised Code of Washington (state law)
REET	Real estate excise tax
RFP	Request for proposal
RFQ	Request for qualifications
ROW	Right of way
SEPA	State Environmental Policy Act
SMA	Shorelines Management Act (state law)
SMSA	Standard Metropolitan Statistical Area
TDM	Transportation demand management
TIB	Transportation Improvement Board
TIP	Transportation improvement program
UBC	Uniform Building Code
UFC	Uniform Fire Code
UGA	Urban Growth Area
ULID	Utility local improvement district
USC	United States Code (federal law)
WAC	Washington Administrative Code (state agency regulations)
WISHA	Washington Industrial Safety and Health Act (state)
WWTP	Wastewater treatment plant

Organizations and professional associations

AICP	American Institute of Certified Planners
APA	American Planning Association
APWA	American Public Works Association
ASPA	American Society for Public Administration
AWC	Association of Washington Cities
AWC RMSA	Association of Washington Cities Risk Management Service Agency
CIAW	Cities Insurance Association of WA
GFOA	Government Finance Officers Association
ICBO	International Conference of Building Officials
ICMA	International City Management Association
IIMC	International Institute of Municipal Clerks
IMLA	International Municipal Lawyers Association
LGPI	Local Government Personnel Institute, AWC
MRSC	Municipal Research and Services Center
NAHRO	National Association of Housing and Rehabilitation Officials
NATaT	National Association of Towns and Townships

NFPA	National Fire Protection Association
NLC	National League of Cities
PAW	Planning Association of Washington
PRIMA	Public Risk Management Association (state and national)
PSRC	Puget Sound Regional Council
WSRDC	Washington State Rural Development Council
WABO	WA Association of Building Officials
WASPC	WA Association of Sheriffs & Police Chiefs
WCIA	WA Cities Insurance Authority
WCMA	WA City/County Management Association
WAPELRA	WA Public Employer Labor Relations Association
WFOA	WA Finance Officers Association
WGEP	WA Governmental Entity Pool
WMCA	WA Municipal Clerks Association
WSAMA	WA State Association of Municipal Attorneys
WSAFC	WA State Association of Fire Chiefs

State government agencies

CERB	Community Economic Redevelopment Board
CJTC	Criminal Justice Training Commission
COM	Department of Commerce
DNR	Department of Natural Resources
DOE	Department of Ecology
DOH	Department of Health
DRS	Department of Retirement Systems
DSHS	Department of Social and Health Services
ESD	Employment Security Department
L&I	Department of Labor and Industries
OAC	Office, Administrator of the Courts
OFM	Office of Financial Management
PDC	Public Disclosure Commission
PERC	Public Employment Relations Commission
RCO	WA State Recreation and Conservation Office
SAO	State Auditor's Office
TIB	Transportation Improvement Board
WSDOT	WA State Department of Transportation
WSHRC	WA State Human Rights Commission
WTSC	Traffic Safety Commission
WUTC	Utilities and Transportation Commission

Federal government agencies

ACIR	Advisory Commission on Intergovernmental Relations
BLS	Bureau of Labor Statistics (Dept. of Labor)
BLM	Bureau of Land Management
BPA	Bonneville Power Administration
DOE	Department of Energy
DOT	Department of Transportation
EDA	US Economic Development Administration
EPA	US Environmental Protection Agency
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
FMHA	Farmers Home Administration
HUD	US Department of Housing & Urban Development



Association of Washington Cities Inc.
1076 Franklin St. SE
Olympia, Washington 98501-1346
(360) 753-4137 or 1-800-562-8981
Fax (360) 753-0149
www.awcnet.org



Municipal Research and Services
Center of Washington
2601 Fourth Ave., Suite 800
Seattle, Washington 98121-1280
(206) 625-1300 or 1-800-933-6772
www.mrsc.org