

A PRIMER FOR CITY COUNCIL MEMBERS



State of Alaska

Department of Commerce, Community, and Economic Development

Division of Community and Regional Affairs

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TABLE OF CONTENTS

This primer is intended as a helpful guide for new council members. It covers basic duties, legal requirements, and procedures for effectively serving as a city council member. Additional information is available on the Division of Community and Regional Affairs website, Local Government Online (LOGON). LOGON can be reviewed at: www.commerce.alaska.gov/web/dcra/LocalGovernmentOnline.aspx

Chapter I. Introduction.....	1
Chapter II. City Council Overview.....	1
Introduction.....	1
Authority of the Council.....	1
Purposes of the Council.....	2
Duties of the Council.....	2
Roles of the Council in the Community	3
The City Council Upholds the Public Interest	4
Chapter III. Be an Effective Council Member	5
Introduction.....	5
Participate in All Issues.....	5
Focus on Policy, Not Politics.....	5
Discuss, Debate, and Disagree Without Fighting	5
Address Issues within the Council’s Control or Authority.....	6
Avoid Micromanagement	6
Additional Tips for Council Members.....	6
Chapter IV. Topics a Council Member Needs to Know	8
Introduction.....	8
Ordinance Procedure.....	9
Emergency Ordinances	9
Code of Ordinances.....	9
The Budget.....	10
Conflict of Interest.....	12
Open Meetings Act	12
Ex Parte Contact	13
Committee of the Whole	13
Board of Equalization.....	13
Board of Adjustment	14
Council Procedures	14

V. Meetings and Motions 15

- Introduction..... 15
- Types of Meetings 15
- Notice of Meetings 16
- The Agenda 16
- Taking Part in Debate 17
- Parliamentary Procedure 17
- Types of Motions 17
- Making a Motion 19
- Voting 19
- Abstaining from Voting..... 19
- Unanimous Consent 19
- Quorum 20
- Role of the Mayor in Council Meetings..... 20

Chapter VI. Council Relationships 21

- Introduction..... 21
- Relationship with the Mayor..... 21
- Relationship with the Administrator 22
- Relationship with the Manager 22
- Tips on the Council’s Relationship with the Manager or Administrator 23
- Relationship with the Planning Commission..... 23
- Relationship with Staff 24

Summary..... 25

CHAPTER I. INTRODUCTION

A city council member plays an important role in the community. Council members perform many duties – from listening to and trying to resolve residents’ concerns to passing an annual budget that balances residents’ demand for city services with available revenues and abilities to pay. Council members must learn about new ideas and situations that require them to stretch their existing knowledge and skill levels. They are expected to be problem-solvers, to be responsive, to be fair, to act in the best interests of the community, and to work hard and be knowledgeable about community activities. There is prestige in being a council member. However, the position of council member is like a second job, involving many hours of work out of the spotlight – essentially, it is a labor of love and commitment, and the payback is reflected in the quality of life in the community.

Residents are often elected to the city council without having a clear picture of what is expected of them as council members or really understanding the workload and procedures of the council. The purpose of this primer is to provide newly elected council members with information to make the transition from city resident to city council member easier.

This primer has been written for council members for all classes of cities, inside and outside of boroughs. In a sense, city powers and council procedures are alike in most communities. Some differences do exist between home rule, first class, and second class cities and between cities that are inside and outside boroughs. This primer covers broader concerns of council members, rather than specific differences between classes of municipalities.

CHAPTER II. CITY COUNCIL OVERVIEW

INTRODUCTION

This section describes the city council authority, the purpose, and the duties of the council. It also discusses the council’s role in the community and in upholding the public interest.

AUTHORITY OF THE COUNCIL

The authority of the council is closely tied to the powers cities may exercise as political subdivisions of the state. All cities have essentially the same authority from the state; however, not all cities exercise the same powers. For example, the cities of Kenai and Cordova exercise a wider range of powers than the cities of Kupreanof and Port Alexander.

The State of Alaska Constitution and state laws both grant broad powers to cities. The constitution states that there shall be maximum local self-government and that a liberal construction shall be given. This support for self-government is repeated in Alaska Statute (AS) 29.35.400, which states, “a liberal construction shall be given to all powers and functions of a municipality conferred in this title.” This declaration means the city council may exercise broad powers within the scope of its authority to raise revenues, provide services, and regulate activities within the municipality and the municipality’s authority is not limited to that spelled out in the law.

How the council chooses to exercise its authority depends on a number of factors, including the size of a city, its ability to raise revenues, the need for services, the rate of economic growth and change, and first and foremost, the desires of residents.

Finally, the powers of a city differ depending on whether it is a first class, second class, or home rule city and whether the city is inside or outside a borough.

PURPOSES OF THE COUNCIL

The council's chief purpose is to serve the public. It enforces public policy, administers public money, and provides services based on what the people of the community want. State law says that the council is the legislative body for the city and spells out a number of duties for which the council is responsible. These duties are listed below under "Duties of the Council." The council also has a political purpose which is closely tied with its legal duties: to represent, as well as possible, the values, needs, and desires of the city's residents. Although councils have essentially the same legal requirements, the different values, needs, and desires of each individual community result in varying political purposes.

DUTIES OF THE COUNCIL

Alaska Statute 29.35 catalogs many duties a council may perform. A city council might not actually perform all of these duties, but all cities have the authority to do so, if they choose. For example, a small city may choose not to exercise eminent domain, issue bonds, or grant a cable television franchise.

Some of the more typical duties include the following:

- Adopt a budget and file required reports with the state
- Adopt a code of ordinances and make the code available to the public
- Maintain a public record/minutes of proceedings
- Establish election procedures
- Acquire, manage, control, use, and dispose of real and personal property
- Provide for the levying of taxes
- Establish, alter, or abolish municipal departments
- Provide for fines and penalties
- Prepare a capital improvements program (CIP)
- Exercise eminent domain (that is, condemn private property for a public use)
- Hire, or confirm the hire of, the police chief, clerk, treasurer, and attorney (depending on the language in the local code)
- Establish a personnel system
- Issue bonds
- Grant or extend a franchise

In addition to those listed in the statutes, the council has other important duties. Some of these council duties include the following:

- Establish rules of council procedure
- Evaluate the city administration and/or manager (In some cases, the mayor may have this responsibility.)
- Hear and evaluate public testimony
- Assess the need and demand for city services
- Assess public opinion on taxes
- Plan for economic development
- Plan for the future and the well-being of the community
- Hear and respond to citizens' concerns
- Resolve residents' problems
- Lobby for grants and funds
- Perform ceremonial duties

Specifically, council members are responsible for management of the city's affairs and are held answerable to the community they serve.

ROLES OF THE COUNCIL IN THE COMMUNITY

Almost everyone in the community has an opinion about the council and what it does. Some residents may view the council as a bunch who don't keep the streets plowed, while others view the council as a farsighted group that got funds for a new boat harbor or clinic. So, just what is the council's role in the community?

The council acts on behalf of all residents to promote the good of the entire community. It is similar to the board of directors of a corporation, except that the council's goal is not to maximize profits to shareholders but to maximize the delivery of services to as many people as possible at the lowest possible cost.

- The council plays several roles in achieving this goal.
- The council manages money by planning or budgeting how much money the city will receive and spend.
- The council manages people and oversees hiring, firing, and evaluating of staff. (The mayor or manager may reserve this authority; however, the council must still evaluate the mayor and/or manager.)
- The council acts as an "ombudsman" by hearing citizen complaints.
- The council evaluates projects, proposals, and other ideas brought forward by residents, staff, and other agencies.
- The council lobbies for grants and funds from outside sources and for public support of its proposals.
- The council determines the types of services needed by residents.
- The council plans for the future and well-being of the community: it creates and follows land use plans, economic development plans, and capital improvement plans.

- The council makes policy: specifically, the council formulates the principles that guide the city's decision-making in its management and administration of public affairs.

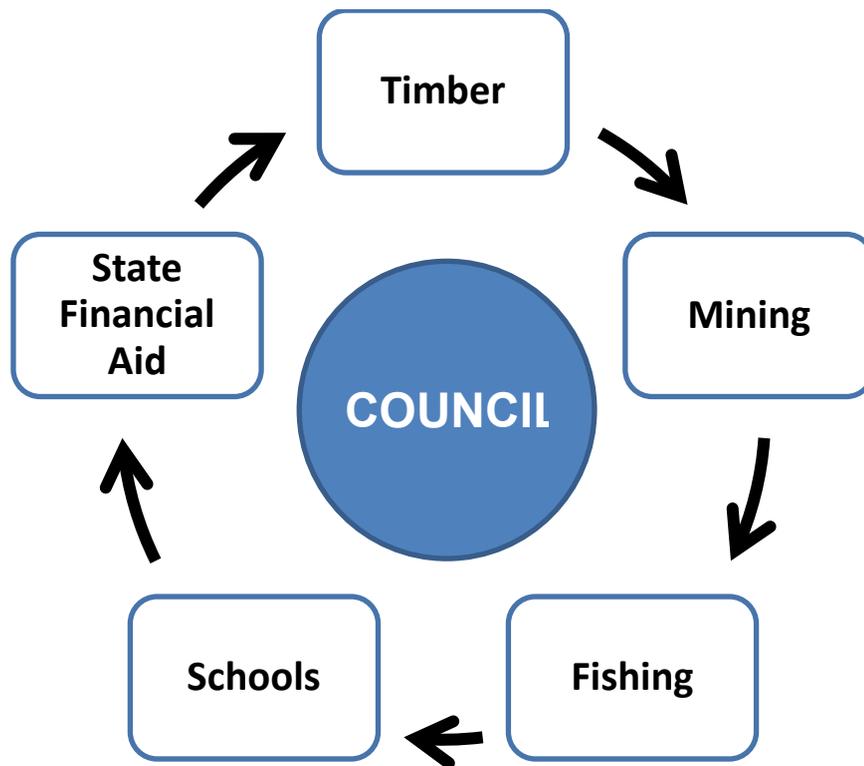
THE CITY COUNCIL UPHOLDS THE PUBLIC INTEREST

The city council is entrusted with upholding the public interest and it must make decisions that affect the entire community, rather than any particular group. Responsibility rests with the council to decide on matters to achieve the greatest good for the greatest number of people within the community.

The public interest is different from a "special interest." A special interest exists when one person or a small group of people would benefit from a council action without regard for the larger interests of the community.

Essentially, the public interest represents the maximum amount of benefit that flows to society at large, rather than to selected groups or individuals. With each decision, the council must weigh and uphold the public interest.

EXAMINATION OF PROPOSAL



CHAPTER III. BE AN EFFECTIVE COUNCIL MEMBER

INTRODUCTION

Every new council member has probably been nervous at his or her first meeting. Should he or she say anything? What are the right procedures? What are some rules that can be followed? This section provides general tips to help a new council member better understand how the council works. Important advice for a council member is to be prepared, listen, and contribute.

PARTICIPATE IN ALL ISSUES

Sometimes a person gets elected to the council because he or she ran on a single issue, such as lowering the utility rates, grading the streets more often, or developing the port. Whatever the issue, when single-issue candidates are elected to the council, they must become multi-issue council members, or they are certain to become frustrated and ineffective. The reason is simple. Council members must deal with a lot of different issues on a regular basis. If the single-issue member does not deal with the other issues, he or she risks loss of support and respect from the other members and the public. When this happens, that person's ability to deal with even the single issue important to him or her loses support.

FOCUS ON POLICY, NOT POLITICS

The council is the policy-making body for the city. In this role, the council is responsible for making decisions about which direction the city is going, how the city will spend its resources (money and staff time), what projects the city will work on, and so on. Policy-making is not really a separate activity -- the council does not sit down at a meeting and say, "Let's make policy!" Instead, making policy is an ongoing activity that develops when the council adopts ordinances, revises or adopts a comprehensive plan, sets harbor fees, considers the ranking of projects in a capital improvements program, and carries out its other duties and responsibilities.

Making policy is simply the act of making a deliberate choice or decision from among different alternatives, based on the available facts. Public policy is created when the council makes these choices or decisions with the best interest of the whole community in mind. A council that is influenced by competing, short-term or personal agendas will have difficulty finding agreement on important public policy issues. Doing the city council's business (in effect, the public's business) is a group activity that requires patience, vision, cooperation, and compromise.

DISCUSS, DEBATE, AND DISAGREE WITHOUT FIGHTING

No one expects council members to agree on everything. In fact, when disagreement exists, it means that different viewpoints are being considered before a decision is made. Looking at the different viewpoints is an important part of the decision-making process and ensures that the interests of all concerned are being given some thought. When a disagreement becomes a fight, however, feelings on the issue have become too personal. Council members should ask for an "at ease" when this

happens to let things cool off. Fighting doesn't solve problems or lead to answers. And, it doesn't help conduct the community's business.

Keep the following rule of thumb in mind: In a city with the strong mayor form of government, the mayor has substantial authority over the day-to-day operations of the city (as chief administrator) and is the chief executive. In a town with the manager form of government, the mayor remains the chief executive but delegates administrative duties to the manager.

ADDRESS ISSUES WITHIN THE COUNCIL'S CONTROL OR AUTHORITY

Some issues may be important to council members and the community but may not be within the council's power or authority to deal with. Decisions about fish and game management or development in wetlands, for example, may be important to a community's economic well-being, but not within its management authority.

Consequently, the council may adopt resolutions stating the city's opinion and send them to state and federal agencies, or it may lobby state or federal officials on these concerns. Council members should avoid issues outside the city's control; for example, gun control or prayer in schools. The council will always have enough work to do without taking on issues that must be resolved by another governmental entity.

AVOID MICROMANAGEMENT

The council appropriates money in the budget but should not micromanage the money by overseeing every expenditure or by making spending decisions that staff are authorized to make. As an example, if \$500 is budgeted for office supplies, council should not tell the staff which supplies to buy. Staff should be allowed to do their jobs with administrative supervision. The council is ultimately responsible to account for public money and should have a good sense about what the money is being spent on, but questions that arise need to be addressed through the chain of command. In the larger sense, appropriate management means that the council members should not try to do their jobs and the staff's jobs, too.

ADDITIONAL TIPS FOR COUNCIL MEMBERS

The following recommendations are addressed to council members to help them act effectively:

1. **Read Your Packet:** Be informed before meetings. Council members usually receive a meeting packet three days before the meeting. Read it and be ready to discuss the issues at the meeting. Information provided in the packet can help you better understand the issues and participate in more detailed discussion during the meeting.
2. **Become Familiar with the City's Planning Documents:** Find out if your city has a comprehensive plan, a coastal management program, a capital facilities plan, or an economic development plan. Take time to read any existing planning documents, or at least read through the table of contents and highlights to become familiar with their contents. When an issue comes up on something covered in a planning document, you will at least know where to look for more information.

3. **Become Familiar with the Code of Ordinances:** Know what is in the code, particularly the chapters on administration, mayor, council, revenue and finance, and public services.
4. **Become Familiar with Title 29 of the Alaska Statutes:** This chapter addresses municipal government. You need to learn the rules that are explicit in statute, and also have an idea how to look something up when questions arise.
5. **Learn All Sides of an Issue before Forming an Opinion:** A council member makes better, well-informed decisions or opinions when he or she learns all sides of an issue. If you take the position that you already know everything about an issue, you may miss an important opportunity to learn something new.
6. **Take Part in Debate:** As a rule, the quality of the council's decision-making is improved when all members contribute to the discussion. Express your views and the views of the people you represent. Participation doesn't ensure that the outcome will be exactly what you want, but it will ensure that your opinions have been considered.
7. **Ask Questions:** You've heard the expression, "There's no such thing as a dumb question." Well, it's true. If you have a question, other members probably do also. If you don't know, how else will you find out?
8. **Seek Solutions:** Be a problem-solver, not a problem-maker. Contribute to debate in a way that will lead to solutions and not merely add to the difficulty or complexity of a situation. We have all known people who focus on why something can't be done rather than look for ways to get it done.
9. **Don't Be Shy:** Nobody else is going to speak up for you. Your idea may be the one that will lead to an answer or a solution, so speak up when you've got something to say.
10. **Use the Staff:** The city staff provides technical assistance. Don't ask staff members to make a decision for you; instead, get from them the facts and other information you need to make the best decision you can.
11. **Be Inquisitive, Not Argumentative:** You should dig into a matter, and be assertive if you must, to get the information you need. But you should not pick fights or needlessly anger people in the process. The best environment for decision-making is one that respects all opinions and the right to express them.
12. **Respect Your Peers:** There's an old saying, "What goes around, comes around." If you don't respect your fellow council members and their opinions and positions, they won't respect you and your opinions either. There is no rule that says council members have to be friends, but relationships should be polite and professional. Council members are community leaders who can set an example for others to follow.
13. **Share Information:** If you know something about a proposal before the council that other members don't know about, share it. The decision-making process will benefit when council members share important information with the entire group.
14. **Put in Extra Effort:** Volunteer to serve on committees, perform ceremonial duties or special assignments. Don't let other members do all the extra work.

15. **Be Practical:** Always look for solutions that are practical and doable. Otherwise, you'll waste everyone's time offering up ideas that are too costly or impractical, or don't relate to the situation the council is looking at.
16. **Focus on Issues, Not Details:** Details are important, but don't get lost in them when considering an issue. Sometimes it's more comfortable to deal with details when an issue is unpopular or difficult, but doing so will not produce answers.
17. **Rely on Facts, Not Opinions:** Relying on facts can be hard, but it is very important. For example, if someone tells you that the proposed animal control ordinance is stupid, that is not necessarily a fact or a good reason to oppose it. If, however, staff recommendations or public testimony show that it would be impossible to enforce or too costly to administer, then you have a factual basis for a decision.
18. **Dealing with Staff:** If you have problems with a staff report – for example, it appears to favor one group or person over another or you question whether the facts are accurate – don't surprise the staff member at the meeting with critical comments. Instead, talk to the staff member beforehand and work out the problem. It is important to maintain a good working relationship with the staff.
19. **Take the Time to Make a Difference:** The time you actually spend at meetings is only a small part of the time it takes to be a good council member. Be prepared to spend a fair amount of time preparing for meetings, staying informed, and being actively involved as a council member.

CHAPTER IV. TOPICS A COUNCIL MEMBER NEEDS TO KNOW

INTRODUCTION - ORDINANCE VERSUS RESOLUTION

An ordinance is a law that (1) establishes a procedure, or (2) governs behavior and may be enforced through fines or penalties. For example, the city adopts vehicle and traffic regulations by ordinance. A resolution, on the other hand, is a statement of the council's opinion or intent. A city may adopt a resolution to create school appreciation day, for example, or support or oppose a state or federal action. The City of Thorne Bay code of ordinances explains differences between ordinances and resolutions this way:

2.12.010 Acts of Council. The council shall act only by ordinance, or resolution. Law of a general, uniform, and permanent nature shall be reduced to ordinance. When council expresses opinions, principles, facts or propositions, it shall be in the form of a resolution.

AS 29.25.010 lists actions a city is required to conduct by ordinance. State law requires that ordinances adopted by the council be assembled into an indexed book called a code of ordinances (AS 29.25.050), while resolutions adopted by the council are to be kept in a permanent file.

ORDINANCE PROCEDURE

The following information on ordinance procedure is taken from Alaska Statute Title 29. Municipalities may require a longer notice period for public hearings on ordinances than the five days stated below, so always check your city code.

1. An ordinance may be introduced by a council member, a committee of the council, the mayor, or the manager.
2. The council, typically at a regular meeting, sets a date for a public hearing on an ordinance. Usually, a public hearing is set for the council's next regular meeting.
3. At least five days before the public hearing, a summary of the ordinance is published or posted for public review with a notice of the time and place for the hearing.
4. Copies of the ordinance have to be available to everyone at the hearing, or the ordinance must be read in full.
5. The council must take public testimony from everyone wishing to be heard.
6. When the public hearing is closed, the council takes action either to reject, adopt, or amend and adopt the ordinance.
7. After the ordinance is adopted, printed copies must be made available to the public in a reasonable period of time.
8. Ordinances take effect upon adoption by the council, unless a later effective date is specified in the ordinance.

EMERGENCY ORDINANCES

Occasionally, the council may need to adopt an ordinance to address an emergency situation quickly under unusual or extreme circumstances. An emergency ordinance may be adopted without a public hearing at the same meeting it is introduced by the affirmative vote of all members present or three-fourths of the total membership, whichever is less. Each emergency ordinance must contain a finding by the council that an emergency exists and a statement of the facts on which the finding is based. An emergency ordinance may not be used to levy taxes; grant, extend, or renew a franchise; or regulate public utility rates.

The council should never get in the habit of adopting emergency ordinances as an alternative to the normal ordinance process. First, emergency ordinances have a limited duration (60 days for general law governments). Second, only in the most unusual circumstances should the public process be avoided. Finally, abuse of this procedure could affect the public's trust and confidence in the council.

CODE OF ORDINANCES

The code of ordinances is the city's book of ordinances. It contains all ordinances of a "general and permanent nature" that are in effect over time. Examples include ordinances on administration and personnel, revenue and finance, public services, and health and safety. These ordinances are "codified" when they are organized according to a numbering system and are "placed in a properly

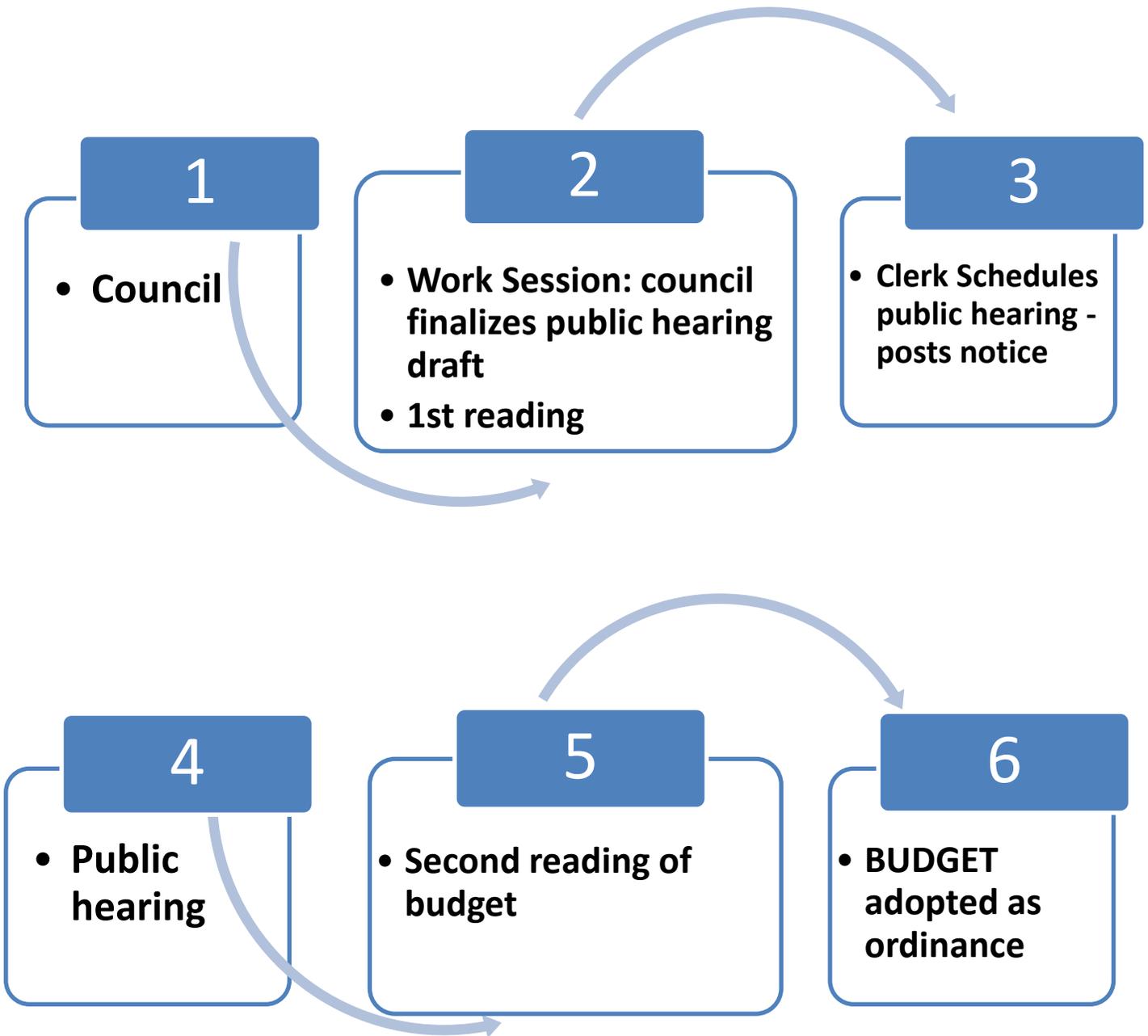
indexed book maintained for the purposes of organizing and recording the ordinances” [AS 29.25.050 (1)]. These codified ordinances are called “code” ordinances. Non-code ordinances address some specific event in time and are not general and permanent. Examples of non-code ordinances are adopting the fiscal year budget, authorizing a special election, and authorizing the sale or disposal of city land.

Smaller communities frequently use a three-ring binder to keep the city’s code organized and updated as appropriate. The ordinances of some larger cities are codified by a company that specializes in this type of work. These companies typically place the codified ordinances in a hardbound, expandable binder with the city’s name printed on the cover. A city that does not have its ordinances codified and organized should recognize that this matter is serious and must be addressed immediately. The city clerk is responsible for codifying the records.

THE BUDGET

The budget is one of the most important assignments the council works on each year. The budget is the council’s outline for city services, revenue collection, and staffing. It is the spending “plan” against which actual expenditures (and revenues) can be measured on a monthly basis throughout the year using monthly financial reports. Work on the budget should be started at least three months before the current fiscal year ends. Council members should carefully evaluate all revenues and expenditures to make sure they are reasonable and necessary. A chart of accounts needs to be created so that all expenditures can be tracked to the right department, such as public works, mayor and council, and public safety, and to the correct cost categories, such as salaries, benefits, commodities, travel and per diem, and contracts. Council members should spend time on the budget. They need to know what’s in it. Council members should ask questions, and request and get monthly financial reports. The budget is one of the most important documents the council produces.

BUDGET PROCESS



CONFLICT OF INTEREST

A conflict of interest occurs when a council member has a direct personal interest, usually a financial interest, in a matter before the council. It is okay to have a conflict of interest, but it is wrong to fail to report it and request to be excused from voting on the matter. If a city does not adopt a conflict of interest ordinance, the provisions of AS 29.20.010 automatically apply as the language that directs the city's conflict of interest process. The provisions of conflict of interest law are these:

1. A member of the governing body should declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;
2. The presiding officer should rule on a request by a member of the governing body to be excused from a vote; and
3. The decision by the presiding officer on a request by a member of the governing body to be excused from a vote may be overridden by a majority vote of the governing body.

It is not unusual for council members in small communities to have conflicts of interest. Not all conflicts involve a substantial financial interest, however. Some conflicts may only appear to be improper or have the appearance of an unfair advantage. These conflicts should be declared as well so that the public doesn't think that council members are self-serving and just looking out for themselves. Basically, if a council member thinks he or she has a conflict, the conflict should be declared and the mayor (or presiding officer) should be notified to decide whether the council member should vote. A conflict should only be declared when a conflict is really believed to exist. A conflict should never be declared to avoid having to vote on a tough issue.

OPEN MEETINGS ACT

The State of Alaska Open Meetings Act (AS 44.62.310) says that all meetings of a governmental body of a public entity (including city councils) are open to the public. This requirement means that the council must provide notice not only of its regular and special meetings, but also of its work sessions and committee meetings. The city code should contain all requirements for public notice of meetings, including what to include in the notice, where the notices are posted, and how soon before the meeting the notices are posted. State law requires that notice be reasonable; include the date, time, and place of the meeting; be posted at the principal office of the public entity, in addition to any other means and locations stated in local ordinance; and be consistent, or done in the same way each time.

Alaska courts have ruled strongly in favor of the Open Meetings Act. Actions taken at unnoticed or improperly noticed meetings can be voided. It can also cost cities a great deal of money to defend officials against charges of Open Meetings Act violations.

Under this Act, a meeting is defined as a gathering of more than three members, or a majority of the members of the governing body, whichever is less. Therefore, public officials should exercise caution when engaged in discussion among themselves of issues outside of any publicly noticed meeting. This kind of discussion has been, and can be, construed as violating the Open Meetings Act.

As a practical matter, council members are always going to be talking to one another. After all, people talk about the things they have in common, and council members are no exception. When members pass each other on the street or sit together in the cafe for coffee, it is natural that the conversation includes city business. Council members must be careful to not commit a vote or seek another member's commitment and to not engage in discussion that leads to a conclusion on an issue before the full council hears it.

A lot of ideas can result from casual encounters outside the pressure and formality of the council chambers. Exchanging information, ideas, and viewpoints can be valuable. However, council members, and all public officials, must be mindful of the provisions of the Open Meetings Act.

EX PARTE CONTACT

Black's Law Dictionary defines ex parte contact as, "on one side only; by or for one party; done for, in behalf of, or on the application of, one party only." What's wrong with ex parte contact? Basically, ex parte contact occurs when someone who wants something from the council takes a council member aside and gets him or her to commit to a position outside the public forum, before the council member has had a chance to hear all sides of an issue. Elected officials are always going to be approached by members of the public who want to raise issues, make complaints, hear explanations, or otherwise talk with council members. Elected officials should – in fact they have a duty to – speak with and listen to residents. But the line should be drawn when a council member is taken aside, given one side of an issue, and asked to state his or her position before knowing all the facts or having heard the other side.

If someone insists on giving a council member information or persuading him or her to take a certain position, the council member should tell that person to share the information with the entire council, or the member should share the information with the entire council him or herself. If the information is written, it should be copied and distributed. If information is so important that someone persists in giving it to a council member, then it's important enough to share with the whole council.

COMMITTEE OF THE WHOLE

Councils often form committees to work on short-term or one-time issues (ad hoc committees) or long-term interests (standing committees). When the whole council meets in a work session, it is often called the "committee of the whole." Usually the committee of the whole meets to discuss important items that are not ready for council action but need further council discussion in an informal setting that promotes the exchange of ideas. For example, if a second class city is considering adopting planning powers, the council may want to meet as a committee of the whole to talk the issue through before an ordinance is drafted for formal action.

BOARD OF EQUALIZATION

The council, or its appointees, convenes as the board of equalization only in cities that levy a property tax. AS 29.45.200(a) states, "The governing body sits as a board of equalization for the purpose of hearing an appeal from a determination of the assessor." The assessor determines the taxable value of property within the city on an annual basis. A property owner who believes the assessor has erred

in valuing his or her property may appeal the assessor's decision to the board of equalization which meets once a year after the assessor has set the taxable values. The person appealing, the appellant, has the burden of proof to show that the assessor's valuation is wrong.

A council member's review of the property tax rolls as a member of the board of equalization is a narrow one: there are very limited grounds on which the council member may overrule the property value set by the assessor. The only grounds for adjustment of the assessment are proof of unequal, excessive, or under-valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing. The council sets a poor precedent if it lowers an assessment for someone because he or she is unemployed, has not maintained his or her property, or simply opposes the assessment on principles or personal grounds.

BOARD OF ADJUSTMENT

In cities that exercise planning powers, the council typically sits as a board of adjustment to hear appeals from decisions of the planning commission. The council may also appoint a hearing officer or a committee of residents sitting as the board of adjustment to hear appeals. Appeals may be made from decisions of the planning commission on requests for variances, requests for conditional use permits, and alleged errors in the enforcement of zoning and building codes. The board sits in a quasi-judicial capacity. This board capacity means that the board examines the matter on appeal as a judge might – by examining the record of the planning commission's decision, calling witnesses, administering oaths, considering testimony, and making a judgment based on the facts. Appeals may be heard "on the record," meaning no further evidence may be introduced, or "de novo," meaning new testimony and evidence may be heard. Usually a de novo hearing is held when there is new evidence for the board to consider that was not presented to the commission at the time of its hearing.

COUNCIL PROCEDURES

Councils must have procedures in place and follow them for meetings as well as for other matters such as filling vacancies and identifying qualifications for office, term of office, and quorum. Some procedures are in AS 29.20.050 through 29.20.180 and other statutes. Other procedures are in the city's code of ordinances, which is usually more specific or detailed than Title 29, or in rules of procedure adopted by the council. Rules of procedure are not ordinances but guidelines the council has agreed to follow. Contained in these rules might be a list identifying the council's standing committees or a requirement to end meetings at 11:00 PM.

V. MEETINGS AND MOTIONS

INTRODUCTION

Members may mingle with the public in many other settings, but meetings are the events at which the public's business is conducted and decisions are made that commit the funds and resources of the city. Meetings should be conducted in a calm, orderly environment free from disruptions. After all, who wants to (or can) make good decisions in a loud or uncontrolled setting with lots of interruptions?

TYPES OF MEETINGS

The council convenes in several different types of meetings which are discussed below.

Regular Meetings: Regular meetings must be held at least once a month and may be held more often. (In some communities, councils may meet twice a month.) The code of ordinances should contain the date, time, and place of regular meetings. Date, time, and place are specified so that everyone knows when regular meetings will be held. The public shouldn't have to be concerned about the meeting time, date, and place always changing. At times it may be necessary to reschedule the regular meeting. When a meeting schedule changes, notice must be posted informing the public that the meeting has been rescheduled and when it will be held.

Special Meetings: Special meetings have the same requirements as regular meetings, except that they are called for a different time than that fixed for regular meetings. For example, the code may require the council to meet in regular session on the third Tuesday of each month at 7:00 PM at city hall. If the council must meet earlier because of the importance or timing of an issue, it can call a special meeting for a date other than the third Tuesday. The special meeting does not take place instead of the regular meeting; it is held in addition to the regular meeting.

Emergency Meetings: Emergency meetings, really special meetings held with 24 hours or less of notice, address situations that are so urgent and so pressing that the council must meet right away. An emergency meeting may be held if a majority of the members are given at least a 24-hour oral or written notice and reasonable efforts are made to notify all members. An emergency meeting may also be held with less than 24 hours of notice if all members are present or if absent members have waived in writing the required notice. Waiver of notice can be made before or after the special meeting is held. The waiver of notice must be made part of the journal or minutes for that meeting.

Committee Meetings: The mayor may appoint both standing and ad hoc committees of the council to examine particular questions or issues in greater detail. Standing committees exist permanently. These may include a finance committee, a public works committee, and a facilities committee. Ad hoc committees are formed to address a specific situation and are disbanded once the situation has been dealt with. Committees may be composed of all council members, or of fewer members, usually three. Committees are valuable because they give the council a chance to study issues before they are ready for council action and identify any

problems, concerns, or difficulties that may exist. A committee cannot take action on behalf of the full council; instead, it recommends an action to the council.

Work Sessions: A work session is not unlike a committee meeting. In fact, the committee of the whole, composed of all members, meets in a work session to discuss matters that do not fall under any other standing or ad hoc committee. Work sessions can be held for a variety of reasons but they share the same characteristics. A work session allows the council to discuss topics in an informal setting, gather information, or study and problem-solve an issue better before it comes before the full council as an action item. In a work session, just like in a committee meeting, council members cannot take action on an item. However, people can make recommendations for action at a future council meeting.

NOTICE OF MEETINGS

Proper public notice must be provided in advance of all regular meetings of the council. Notice of three to five days is considered reasonable; however, city ordinances should state how many days of notice is required. Special and emergency meetings require only 24 hours of notice or less.

Notice should also be provided for work sessions and committee meetings. State law requires that notice include the date, time, and place of the meeting; be posted at the principal office of the public entity, in addition to any other means and locations stated in local ordinance; and be consistent, or done in the same way each time. The notice should also contain an agenda; however, the agenda can be made available one or two days before the meeting. Notice should be posted at several known and well-used locations in town, like the post office, the store, city hall, and the community bulletin board. Notice may also be published in a newspaper of general circulation in the community or broadcast over a local radio station. It is important that the public knows where notice will be posted and knows what business will be discussed at the meeting.

THE AGENDA

The council must approve an agenda format to be used at all regular meetings. A sample agenda might include the following:

- | | |
|----------------------------------------------|---------------------------------------------------|
| I. Call to Order | VII. Public Hearing on Ordinances and Resolutions |
| II. Roll Call | VIII. New Business |
| III. Approval of Minutes of Previous Meeting | IX. Old Business |
| IV. Public Comment on Non-Agenda Items | X. Committee Reports |
| V. Manager's or Administrator's Report | XI. Council Comments and Questions |
| VI. Ordinances for Introduction | XII. Adjournment |

The order of the agenda may be changed at the meeting. For example, an item toward the end of the agenda may be moved up and dealt with earlier in the meeting. The procedure to follow in changing the agenda is to make a motion to suspend the rules to amend the agenda and then name which item is proposed to be moved. The agenda should be amended only when there is a good reason.

TAKING PART IN DEBATE

Debate and discussion are not the same. Discussion is general and doesn't necessarily lead to closure of an issue. It is the method used for less formal meetings and work sessions. Debate occurs after a motion has been made and formal council action is required.

Debate at council meetings goes through the mayor. If a council member wants to speak, he or she must raise a hand and be recognized by the mayor (or presiding officer, if the mayor does not run the meetings). The member may then speak only on the motion under discussion. Members should never interrupt one another. Comments should be brief and to the point.

PARLIAMENTARY PROCEDURE

Although people often think parliamentary procedure is too complicated to ever make any sense, the protocol is not as complex as they fear. Rules, or tips, are available to understand parliamentary procedure and use it correctly. Almost all city councils use either *Robert's Rules of Order* or *Mason's Manual of Legislative Procedure*.

The use of rules, or parliamentary procedure, for debate fulfills several important purposes. It provides form or structure for debate. It ensures that only one item at a time is before the council for debate. It provides a forum for debate that is fair to everyone and partial to no one. Finally, it permits the will of the majority to prevail while protecting the rights of the minority and permitting all sides of an issue to be heard. Councils can use their own rules for parliamentary procedure, but most use *Robert's Rules of Order* because this set of guidelines is familiar and well established.

TYPES OF MOTIONS

The backbones of parliamentary procedure are in motions and how they are made and disposed of, the various categories of motions, and the relationship between motions. The four types of motions are discussed below.

Main Motion: The main motion is the motion that brings an item of business before the council for its formal deliberation. Only a main motion can bring matters before the council for a vote.

Subsidiary Motion: A subsidiary motion relates directly to, and amends, a main motion.

Any subsidiary motions on the floor must be voted on before returning to the main motion.

Seven types of subsidiary motions are listed below:

1. Postpone indefinitely
2. Amend
3. Refer to a committee or staff
4. Postpone to a certain time
5. Limit or extend the limits of debate
6. Call for the previous question (vote)
7. Lay on the table

These motions are listed in their order of precedence. That means they must be dealt with in order (from bottom to top) if more than one is on the floor at the same time. For example, a motion to “lay on the table” has precedence over all the other subsidiary motions and so on up the list. In addition, any subsidiary motion before the council must be voted on before the main motion may be voted on. The most common subsidiary motion is the motion to amend.

Privileged Motion: A privileged motion deals with the rights of the members and with the group, not with the other motions on the floor. A privileged motion may interrupt other business, is not debatable, and must be dealt with before any other pending business. It may be any of the following:

- Call for the orders of the day
- Raise a question of privilege
- Recess
- Adjourn
- Fix the time to adjourn

Like subsidiary motions, privileged motions are also listed in order of precedence, (from bottom to top in this list) with the last motion having precedence over the others and so on up the list.

Incidental Motion: An incidental motion deals with questions of procedure and is not related to the main motion. Incidental motions do not have an order of precedence, and as a rule, they are not debatable. An incidental motion must be dealt with before the council can return to the main or subsidiary motions. Of 15 incidental motions, the most common are as follows:

- Point of order
- Point of information
- Parliamentary inquiry
- Division of the question
- Appeal a decision of the chair

Other incidental motions are rarely used, but can be reviewed in Robert’s Rules of Order.

MAKING A MOTION

A main motion is the way an item is placed before the council for consideration and action. A council member, after being recognized by the chair, says, “I move for the adoption of Ordinance 10-16.” The mayor then asks for a second, and when the motion is seconded, asks if there is any debate on the motion. Any subsidiary motions that may be made, such as a motion to amend the ordinance, or to table it, or send it to a committee, must be voted on before the main motion may be voted on. Robert’s Rules of Order requires that every motion have a second. In Mason’s Manual of Legislative Procedure, however, motions do not require a second.

Every motion consists of eight steps (or seven if using Mason’s rules) that follow in order:

1. A council member seeks recognition from the chair
2. The member is recognized by the chair and “has the floor”
3. The member makes a motion
4. The motion is seconded (Robert’s Rules of Order)
5. The chair restates the motion to the body
6. Council debates the motion
7. Council votes on the motion
8. The chair announces the result of the vote

VOTING

Once debate on a motion is completed, the council has to vote. Every member present has to vote unless the member declares a conflict of interest and the mayor (or presiding officer) rules that the member has a conflict of interest that prevents him or her from voting. Every council member’s vote is recorded as a “yes” or “no” and may be given as a show of hands. If the council’s bylaws don’t already require it, anyone on the council may request a roll call vote in which the clerk calls each member’s name and each name and vote are entered into the record.

ABSTAINING FROM VOTING

Every council member must vote on every issue. A member can only abstain if the mayor has ruled that he or she has a conflict of interest on the particular matter being voted on. A council member must explain his or her conflict and get a ruling that a conflict does or does not exist. The mayor’s ruling, whichever way it goes, may be overridden by a majority of the council.

UNANIMOUS CONSENT

Unanimous consent occurs when all members vote in favor of a motion. Sometimes, unanimous consent simply occurs after a vote, when all members end up voting the same way. Other times, unanimous consent may be requested as part of a motion. Typically, this request happens when the

person making the motion knows the item is not controversial. The person making the motion might say, “Mr. Chair, I move for the adoption of Ordinance 10-23 and ask unanimous consent.” The chair then asks if there is any objection. If there is none, the item is adopted by unanimous consent. Discussion may also be permitted but usually only for clarification. If there is objection, then debate occurs and the matter goes to a vote.

QUORUM

A quorum is the minimum number of council members required to conduct business. AS 29.20.160(c) states that a majority of the total membership of the council constitutes a quorum. In first and second class cities, the majority is always four members because AS 29.20.130 states that each first class city has a council of six members and each second class city has a council of seven members. In second class cities, the mayor is elected as a council member. In first class cities, the mayor is elected separately; he or she is not considered a member of the council, and is not counted as part of the quorum.

A member who is disqualified from voting is considered present for purposes of a quorum. If a quorum is not present, any number of the members present may recess or adjourn the meeting to a later date. Formal actions of the council must be adopted by a majority of the full membership, never by a majority of the quorum. So, if only four members (a quorum) are present at a meeting, any one member can vote down items before the council because three votes is not a majority of the full membership. For this reason, sensitive, complex, or difficult matters should come before the council only when all the members are present.

ROLE OF THE MAYOR IN COUNCIL MEETINGS

Council members and the public look to the mayor to provide leadership during the meeting. The mayor should understand the issues before the council, know and understand the members of the council, and be able to bring the council to decisions even on difficult or complicated issues. The mayor should be able to do all of the following effectively.

Run a Meeting: The mayor is responsible to run an orderly meeting and conduct public business in a fair and timely manner. Everyone looks to the mayor for leadership.

Maintain Order: The mayor should not allow cheering, hissing, booing, or other demonstrations from the audience. Nor should he or she permit council members to become rude, confrontational, or argumentative with one another or the audience.

Keep the Business Moving: It is the mayor’s job to keep business moving by bringing matters to a vote.

Manage Public Testimony: By using a sign-up list, the mayor will know who wants to speak on items before the council. If a lot of people want to speak, the mayor should set a time limit per speaker (usually three minutes). Rambling, irrelevant testimony should be discouraged.

Prevent Arguments: Discussion between council members and members of the public who are testifying should be limited to fact gathering that helps the council make informed decisions.

Use Parliamentary Procedure: The mayor needs to know enough parliamentary procedure to run the meeting. Someone else may be the parliamentarian (under state law, this role is assigned to the city clerk), but the mayor must have a working knowledge of parliamentary procedure.

Tie Things Together: The mayor should have the ability to take into account public testimony, council deliberations, and an understanding of the issues at hand when guiding the council toward a decision.

Implement Approved Actions: The mayor should have the ability to create an action plan and follow through on the actions decided at the meeting.

CHAPTER VI. COUNCIL RELATIONSHIPS

INTRODUCTION

The council interacts with many different individuals and groups of people: the mayor, the administrator, the manager, the planning commission, the staff, the public, and others. This section addresses the business nature of these relationships.

RELATIONSHIP WITH THE MAYOR

The mayor may be either the chief executive of the city or, if the city has the manager form of government, more of a ceremonial head of government. The powers of the mayor also vary depending on the class of city (home rule, first class, or second class). However, the relationship between the mayor and the council is basically the same for all classes of cities, whether a home rule city with the manager form of government or a second class city where the mayor is chief executive. The mayor-council relationship is based on the fact that the mayor is the political leader of the city and holds the city's highest elected office.

The office of mayor is typically granted a certain respect. Whether or not the person who occupies the office is personally well liked by other council members really isn't important. What counts most is the ability of the mayor and the council to work together for the common good of the community. If the mayor and the council fought all the time, the disputes would project a negative image to the public, waste valuable time, promote conflict, slow down work and progress, and distance people from one another. The results of constant fighting do not make an effective council.

The council members may not always agree with the mayor, and they may not think the mayor makes good decisions all the time, but they have to work with the mayor. Council members should strive to work with the mayor in a manner that:

- Projects a positive image
- Makes best use of the council's time
- Promotes teamwork
- Permits work to go forward and progress to be made, and
- Involves the whole council, including the mayor, in solving problems

RELATIONSHIP WITH THE ADMINISTRATOR

Cities may have either a mayor as chief executive, or a manager form of government. With the manager form of government, AS Title 29 grants the manager the executive authority to run the operations of the city. In cities that do not have the manager form of government, the mayor is the chief executive and may exercise powers granted to the position in Title 29 and the local code. An administrator may be hired to conduct city business and carry out the directives of the mayor and council. The mayor typically hires the administrator, which may be subject to approval of the council, depending on the local code or local preference.

Unlike a manager, an administrator's authority doesn't come from state statute. The administrator performs only those duties that are delegated to his or her position. It is very important that the council make it clear what is being delegated in writing. This clarification of delegated duties may be done by ordinance, resolution, job description, or written delegations of authority so that it is clear to everyone, including the public, what the mayor and council expect the administrator to do. Whichever method is used, everyone should be clear on just what the administrator's duties are. The administrator reports to the mayor but, as a practical matter, works for the entire council. Individual council members should not order the administrator to do things that the council has not discussed and approved or that the mayor is unaware of and has not approved. After all, what if another council member or the mayor has an entirely different view and also orders the administrator to do something? The full council may evaluate the administrator annually, although the mayor may also complete the evaluation. The council should authorize approval of the administrator's contract.

RELATIONSHIP WITH THE MANAGER

Although the administrator's role with the mayor and council may change somewhat from city to city, the manager's role is more standardized. This role is standardized because the duties of the manager as chief executive are spelled out in AS 29.20.460 through .520. The manager is hired by and serves at the pleasure of the council. The full council evaluates the manager.

TIPS ON THE COUNCIL'S RELATIONSHIP WITH THE MANAGER OR ADMINISTRATOR

Whether a city employs a manager or an administrator, the following advice should be kept in mind regarding the council's relationship with that person.

The council should:

- Clearly define its expectations for the person in that position
- Give the manager or administrator clear direction on assigned tasks or duties
- Give the manager or administrator the opportunity to use his or her professional skills
- Evaluate the manager's performance on a regular basis
- Never blame the person for actions initiated by the council that may be unpopular

Conversely, the manager or administrator should be mindful of certain behaviors when he or she interacts with the council.

The manager or administrator should:

- Always help to resolve issues
- Seek clarification in situations for which council direction is unclear or conflicting
- Stick to the facts and refrain from offering personal opinions
- Avoid picking sides in a dispute
- Explain items to the council – never lecture
- Never promote conflict or division
- Never act as the eighth council member
- Never try to hide a mistake or get the council to cover it up

RELATIONSHIP WITH THE PLANNING COMMISSION

The planning commission is an advisory body to the council. The commission makes some decisions on its own authority for the approval (or denial) of variances, conditional use permits, and subdivision plats. Planning commission denial of variances and conditional use permits may be appealed to the council sitting as a board of adjustment. Plat denials must be appealed directly to Superior Court. Otherwise, the commission makes recommendations to the council for council action. For example, the commission may recommend a rezoning of property, amendments to the zoning and platting codes, or revisions to the comprehensive plan, all of which must be approved by ordinance and therefore by the council.

The council benefits from having a strong, capable commission. The commission can handle a lot of work on behalf of the council, work that the council does not have time to do along with all of its other duties. A commission that can give the council solid reasons for the positions it takes will help the city make good planning decisions.

RELATIONSHIP WITH STAFF

City staff are supervised by the mayor, the administrator or manager. The council may hire, fire, and evaluate the manager or administrator, attorney, and clerk, but the council should not engage in the day-to-day supervision of employees. Several pointers can assist council members in achieving a positive working relationship with the staff.

The Staff Advises: It is the staff's job to provide the council with the facts and information needed to make a decision; in fact, it is customary for the staff to make a recommendation for council action. The council should not make any staff person into an eighth council member, however, by expecting that person to make decisions that the council is elected to make. Such expectation for decision-making can place a staff member in the awkward position of substituting his or her judgment for the collective judgment of the council. This expectation is not only unfair to the staff person, but can unnecessarily make him or her a scapegoat for mistakes.

Council Instructions to Staff: Council instructions to the staff to perform assignments must go through the manager, mayor, or administrator, and not directly from the council to the staff member. This way, the manager or administrator is on top of the workload, knows what staff members are doing, and can make staff assignments appropriately. Also, individual council members should not give instructions to the staff without the knowledge or consent of the full council because one member's viewpoint or the nature of the request may not represent the shared viewpoint or position of the full council.

Evaluations: The mayor, council, or both should evaluate the administrator or manager and any other position under their direct control once a year. (The city personnel policy should identify who actually performs the evaluation.) Evaluations tell affected staff how well they are performing and what improvements can be made in their performance. Evaluations provide records of employee performance that can be used for personnel actions or to respond to requests for references. Evaluations are also useful exercises for council members to assess their own expectations for the performance of city employees.

Merit versus Cronyism: Employees should be hired on the basis of their abilities and promoted or terminated on the basis of their performance. Otherwise, the council could be accused of cronyism or favoritism. Preferential treatment, in turn, can create distrust and lack of interest among residents and erode community respect and support for the council. A weakened council cannot represent the community as well as a council that is principled and fair.

Professional versus Personal Relationship: Council members should not base the performance evaluation of a manager, administrator, or employee on personal feelings. After all, the city may have a manager who is not particularly well liked by a member of the council but who is doing his or her job well and performing up to the council's overall expectations. On the other hand, the city may have an administrator who is well liked but doing an average or unacceptable job. He or she should not be evaluated on the basis of popularity. Each evaluation should be based only on performance.

SUMMARY

Each city council member is entrusted to make objective, well-informed decisions which affect the everyday lives of people in the local community. With careful preparation, the council member can be ready to meet this challenge and help fulfill the role of the council within the community.