

EOE webinar series: Local decision-making & Ethics 101

Hugh Spitzer, Professor, U.W. School of Law
Sheila Gall, General Counsel, AWC
March 21 | noon - 1:15 pm

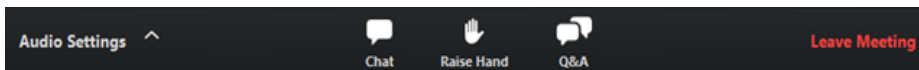


1

Zoom WEBINAR TECHNICAL TIPS

- Chat and Q&A features

Select **Chat**, type your technical concerns into the chat pane, and hit **Enter**.
A staff member will respond to assist you.



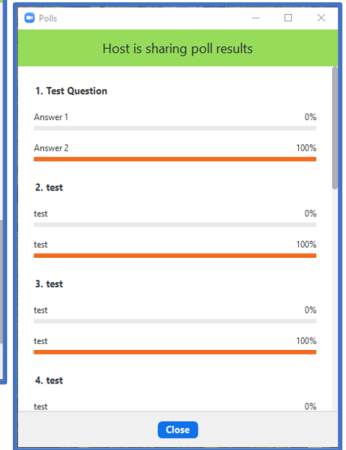
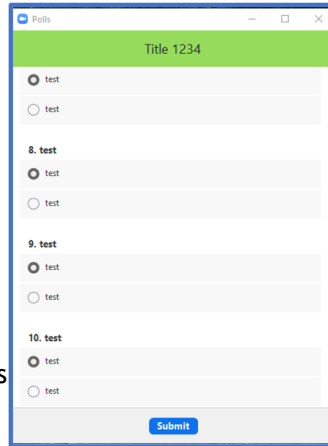
Select **Q&A**, type your question in the Q&A pane and hit **Enter**.
The moderator will get your question to the presenter.



2

Zoom polls

1. The host will launch polls during Zoom webinar.
2. A **Polls** window will appear.
3. Select the radio button to choose a response for each of the questions.
4. Select the blue **Submit** button.
5. After the polls are submitted, the hosts will close the poll and share the results.
6. Select **Close** to close the poll results window.



3

Viewing closed captioning

- In the meeting controls toolbar, click the **Show Captions** icon.
- (Optional) Click-and-drag the captions to move their position in the meeting window.



4

Technical difficulties and disclaimer

Technical difficulties?

Please use the chat feature in Zoom for technical issues.

Disclaimer: The information contained in this presentation is for general educational purposes only and is not intended to be legal advice. Please consult legal counsel for advice about specific questions.



5

EOE webinar series Local decision-making & Ethics 101

Sheila Gall
AWC General Counsel



6



Roles & Responsibilities: City classifications & forms of government



7

Classifications of cities

1,961 elected city officials

Types of cities (classification)

- **Code Cities (197)** – RCW 35A
- **First Class (10)** – Constitution Art XI, Sec. 10 & RCW 35.22
- **Second Class (5)**
- **Towns (68)**
- **Unclassified (1)** - Territorial charter



8

What is your city's classification?

- a. First class city (charter)
- b. Code city
- c. Second class city
- d. Town
- e. Unclassified
- f. Don't know



9

Forms of Government

Forms of government

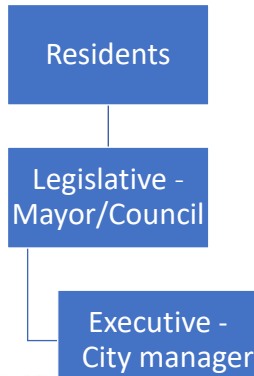
- **Mayor-council** (Executive Mayor) (227)
- **Council-manager** (54)
- **Commission** (0)



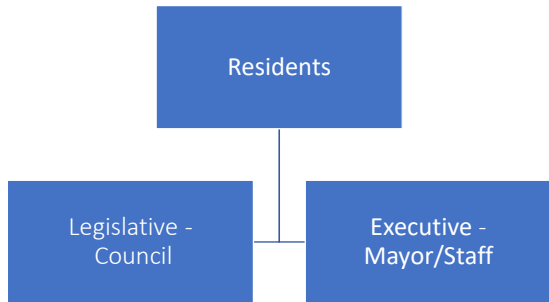
10

City branches - Separation of power

Council-Manager



Mayor-Council (Executive Mayor)



What is your city's form of government?

- a. Mayor-Council (Executive Mayor)
- b. Council-Manager
- c. Don't know

Mayor-Council Form

- **Mayor** (elected at-large) serves as city's chief administrative officer.
- **Council** (elected either at-large or from districts) serves as the legislative body.
- **Policy vs Administration:** council formulates and adopts policy and the mayor carries it out.
- **Council meetings:** mayor attends and presides over council meetings but does not vote, except in the case of a tie (based on classification).



13

Mayor-Council Form with CAO

- Some mayor-council cities hire professional administrators to assist the mayor with administrative duties.
- These cities gain the benefits of professional management, allowing the mayor to focus on policy development and political leadership roles.



14

Mayor's Role

- Carrying out the policies set by the council and seeing that local laws are enforced
- In charge of the day-to-day operation of the city, including the supervision of all appointed officials and employees
- Oversees the hiring and firing of all appointed officers and employees, subject to civil laws, where applicable
- (If there is a city administrator, the mayor coordinates and oversees actions taken by the city administrator.)



15

Councilmember's Role

- Adopt policies for the city -- and it is the mayor's role to administer or carry out those policies.
- Enact laws and policies, consistent with state law, usually through the enactment of ordinances and resolutions.
- Enact the budget -- major role.



16

Council-Manager Form

- Elected city council responsible for policy making.
- Professional city manager, appointed by council, is responsible for administration.
- City manager provides policy advice, directs daily operations, handles personnel functions (including appointment and removal of employees) and prepares the city budget.
- Mayor chosen from council to serve as ceremonial head.



17

Mayor in Council-Manager City

- Councilmember chosen by council to serve for two years.
 - Separately elected in some cities.
- Chairs council meetings.
- Votes as a councilmember.
- Serves as ceremonial head of the city.



18

Council in Council-Manager City

- Same policy/legislative role as in mayor-council form.
- **Except:** hires and fires city manager.
- City council should provide freedom to city manager to make the tough administrative decisions.
- Prohibited from interference with city manager and staff (RCW 35A.13.120).
 - Deal with administrative services solely through city manager.
 - "Except for purpose of inquiry" and discussions in open sessions.



Policy vs Administration



Policy

Council sets policy — big picture

- Creates laws (ordinances)
- Establishes budgets
- Authorizes projects and agreements

Administration

Mayor/Manager administers policy and day-to-day city operations — details

- Enforces laws (statutes, ordinances)
- Administers budgets (authorizes expenditures)
- Executes and manages contracts
- Hires and fires staff
- Mayor serves as ceremonial head of city



Policy vs Administration - Finance



Policy	Administration
<ul style="list-style-type: none">• Enact a city budget.• Impose fines and penalties for violation of city ordinances.• Impose taxes, if not prohibited by state law.• Grant franchises for the use of public ways.• License/regulate businesses.	<ul style="list-style-type: none">• Prepare a proposed budget.• Report to the council on the financial and other affairs and needs of the city.• Administers taxes and fees.• Approve or disapprove all official bonds and contractor's bonds.



Policy vs Administration - Employees



Policy	Administration
<ul style="list-style-type: none">• 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.	<ul style="list-style-type: none">• Hire/fire employees.• Supervise employees.



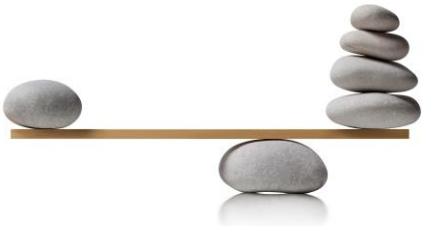
Policy vs Administration - Legal



Policy	Administration
<ul style="list-style-type: none">• Enter into contracts.• Approve claims against the city.• Regulate the acquisition, sale, ownership, and other disposition of real property.• Enact rules governing council procedures, including for public meetings and hearings.	<ul style="list-style-type: none">• Enforce contracts.• Bring lawsuits, with council approval.• Preside over council meetings.• Call special meetings of the council.



Ethics & Conflicts of Interest



Ethics in city government

Code of ethics for municipal officers—
Chapter 42.23 RCW

- Prohibits transaction of private business that conflicts with the proper performance of duties as a municipal officer
 - Municipal officer broadly defined and applied



25

Ethics in city government

Interest in contracts:

- No direct or indirect beneficial interest in any contract made by, through, or under the supervision of a municipal officer.
 - “under the supervision” broadly interpreted
- May not accept, directly or indirectly, any compensation, gratuity, or reward with the contract.



26

Ethics in city government

Remote interest exceptions:

- Non-salaried officer of non-profit corporation.
- Employee of contracting party if employee's wages or salary are fixed compensation.
- Landlord or tenant.
- Owns less than 1% of the shares.
- **But** – remote interest may not influence or attempt to influence others into contract.

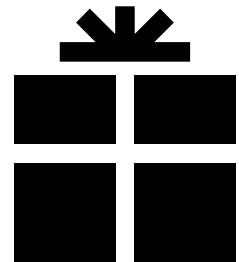


27

Ethics in city government

Privileges and gifts

- Cannot use your position to secure special privileges or exemptions for yourself or others.
- Cannot, directly or indirectly, give or receive any compensation, gift, reward, or gratuity.
 - No minimum on value of gift
 - Some city policies link to state official guidance (RCW 42.52.150)



28

Does your city have an ethics policy on gifts?

- a. Yes
- b. No
- c. I don't know



29

Conflicts of interest in city government

Prohibited acts

- Cannot accept employment or engage in business that might reasonably require or induce officer to disclose or acquire confidential information by reason of the officer's position.
- May not disclose or use confidential information for personal gain or benefit.



30

Ethics in city government

Penalties

- Contract is void.
- \$500 penalty.
- Removal from office.



31

Gift of public funds

- Private use of public funds prohibited – Art VII, Sec 7
- Except for necessary support of the poor and infirm
- Focus on purpose
- Not a gift if:
 - Fundamental purpose of government or
 - Contracted benefit



32

Questions?

