



Association of Washington Cities Annual Meeting

Vancouver USA, June 20, 2024

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Hot Topics in Governance and Law

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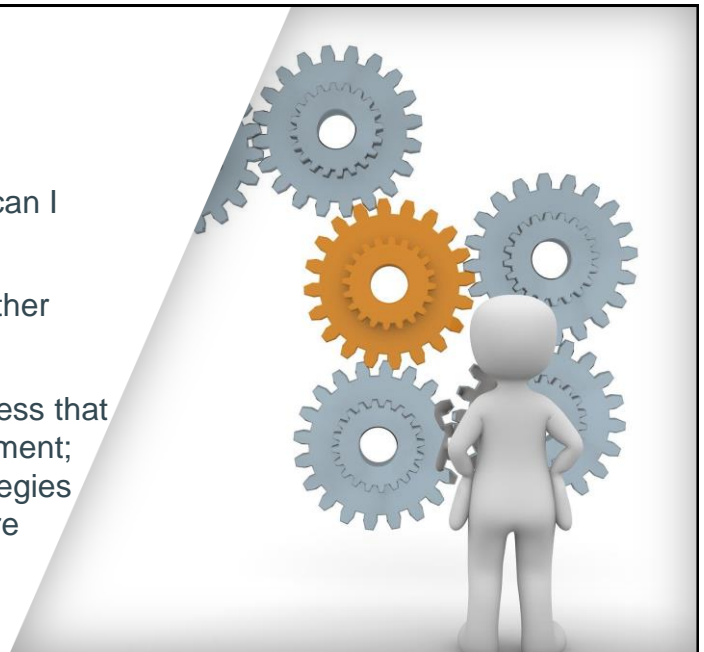
The Usual Disclaimers!

- This presentation does not necessarily reflect the views of AWC, MRSC, Foster Garvey P.C., or any individual city or town.
- This presentation is for educational purposes. For legal advice, participants should consult with the legal counsel for your community.
- Do not take candy from a stranger and do not run with scissors!

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Objective

- 6 months on the job – what more can I learn?
- Prepare for election season and other legal issues.
- Identify tools to minimize divisiveness that undermines citizen trust in government; how effective communication strategies build a strong organizational culture to promote relations with staff, council/mayor and the community.



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Outline



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Part One: The Election Season

MRSC - SUPPORTING/OPOSING BALLOT MEASURES AND CANDIDATES

<https://mrsc.org/stay-informed/mrsc-insight/may-https://mrsc.org/stay-informed/mrsc-insight/may-2024/supporting-ballot-measures-candidates>

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RCW 42.17A.555

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency **may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly**, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.

BALLOT ENCLOSE

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Support or Opposition to Ballot Measure?

- RCW 42.17A.555 (2) does not restrict the right of any individual to express their own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency. (WAC 390-05-271)
- RCW 42.17A.555 (1) allows a city council to express support or opposition if
 - its meeting notice includes the title and number of the ballot proposition, and
 - if those who have an opposing view are afforded an approximately equal opportunity to express their opinions.

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Public Disclosure Commission

Guidelines for Local Government Agencies in Election Campaigns | Washington State Public Disclosure Commission (PDC)

<https://www.pdc.wa.gov/rules-enforcement/guidelines-restrictions/guidelines-local-government-agencies-election-campaigns>

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Three Categories of Government Property

Traditional public forum, the designated public forum, and the non-public forum.

Ark. Educ. Television Comm'n v. Forbes, 523 U.S. 666, 677-78, 118 S.Ct. 1633, 140 L.Ed.2d 875 (1998) ...

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New Election Legislation

- Harassing an election official a Class C Felony - RCW 9A.46.020 (HB 1241)
- Requiring protection against cyber-security threats (SB 5843)
- Improvement to ballot review, signature verification, and rejection process (SB 5890)
- Pro and Con committee members to live within jurisdiction - RCW 29A.32.280(2) (ESHB 1272)
- Unifying change of address procedures – RCW 29A.08.410 (HB 1962)

Part Two: Allegations Against the Mayor

WHAT IS THE COUNCIL'S ROLE?

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 clear....

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

MRSC Mayor & Councilmember Handbook (Rev., September 2023) at Page 33

mrsc.org/getmedia/034f13b6-7ec2-4594-b60b-efaf61dd7d10/Mayor-And-Councilmember-Handbook.pdf?ext=.pdf

The Autocratic Mayor/Manager

Following the assumption that the city's government is business to its logical conclusion, the autocratic mayor is the natural consequence. In the modern business world the captain of industry has come to be the chief figure. With the perfection of organization, concentration of power, and fixing responsibility there has developed a one-man rule in big business. These examples have had an influence on development of municipal structure, organization and methods, and as a result the autocratic mayor has been evolved. **It is often conceded that efficiency of the public service is of more importance than the haphazard working of democracy in the old way. The voters are free to choose the mayor in the first instance whose term is limited. . .**

2 A.E. McQuillin, The Law of Municipal Corporations, 213 (3d Ed. 1996).

RCW 35A.12.100

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



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SCOTUS: Censure Did Not Violate Official's First Amendment Rights

In a unanimous 13-page ruling, Justice Neil Gorsuch noted that “elected bodies in this country have long exercised the power to censure their members,” and there is no reason to believe that the First Amendment was intended to change that practice. “If anything,” Gorsuch observed, censures for an elected representative’s speech “have proven more common yet at the state and local level.”

Houston Community College System v. Wilson
(March 24, 2022)



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Part Three: The Market for Legal Services

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Auburn Farmers Market

YANCOUVER, WASHINGTON
Named a top 100 city to live in the U.S. by Usability.com

CITY OF KIRKLAND
WASHINGTON

ROY

PORT OF OLYMPIA
Tours are back!

DISCOVER THE PORT'S
WORKING WATERFRONT

SIGN UP FOR FREE PUBLIC TOURS OF THE MARINE TERMINAL AT
WWW.PORTOLYMPIA.COM

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Types of City Attorney Positions

Some cities choose to retain private attorneys or private law firms to act as their city attorney, commonly known as a “contract attorney” or “outside counsel.” Other cities hire city attorneys as employees of the municipality, creating an “in-house” counsel position. Sometimes, a city will use a combination of the two, hiring an in-house counsel for general counsel responsibilities, and hiring outside counsel on an as-needed basis whenever the city has a need for an attorney with a particular specialty (such as labor negotiations).

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Part Four: COMMUNICATIONS, COMMUNICATIONS, COMMUNICATIONS!

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Civility and the Conduct of the People's Business

The decline in civility and growth of harassment, threats and violence against public officials has been underway for decades. There is a complex network of causal and influential factors at play including polarization, spread of mis- and disinformation and the growing influence and power of social media.

On-the-Frontlines-of-Todays-Cities-1.pdf (nlc.org)
<https://protect-us.mimecast.com/s/Kjf3CKrYG9h8GNmJu3f6yQ?domain=nlc.org>

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New Republic (NR Plus Magazine, October 16, 2023)

“The Incompetence of Local Government”

By Christine H. Rosen

“Deteriorating services by local government combined with partisan moralizing by public officials breeds cynicism in, and has a demoralizing effect on, the people these officials are supposed to govern. When citizens lose trust in their local government’s ability to do basic things, they may lose trust in their government. What we need from local officials aren’t more media-friendly murals, excuse-making, and lectures on social justice. Just do the jobs that we, as taxpayers, pay you to do: Pick up the garbage, keep the streets safe, open the swimming pools, and provide reliable emergency services. Functional municipal government might not be glamorous, but it is essential to the flourishing of healthy communities.”

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An Approach: Basic Civics

Virtual Citizens Academy

The City of Snoqualmie proudly presents the Virtual Citizens Academy designed to engage and educate the public about the many facets of operating a municipality.

<https://www.snoqualmieva.gov/308/Citizens-Academy>

And see:

<http://www.eugene-or.gov/DocumentCenter/View/28908/So-You-Want-to-Run-For-Local-Office-League-of-Oregon-Cities>

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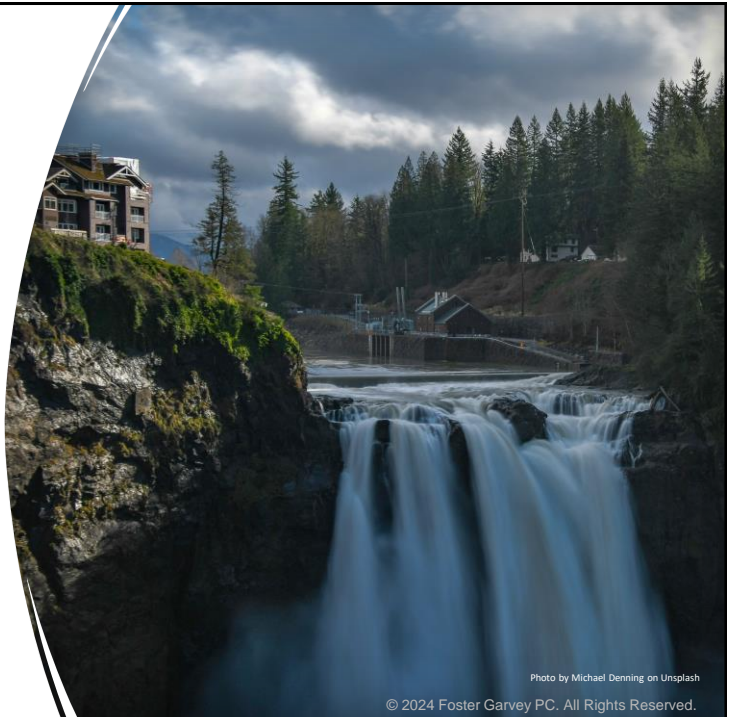


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Sound Cities Association – Guiding Principles

- Assume that others are acting with good intent
- No surprises!
- Have each other's backs
- Think about who is not at the table
- Be candid, but kind
- Once a decision is made, work together to make it work
- Show up to meetings prepared . . .

Sound Cities Association – Guiding Principles (*cont.*)

- Be fully present and engaged during meetings
- Extend grace to others – cut them some slack
- Remain open-minded
- Respect differing views

You can disagree without being disagreeable.



Bernard Meltzer



Ronald Reagan

Questions?

Thank you.



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