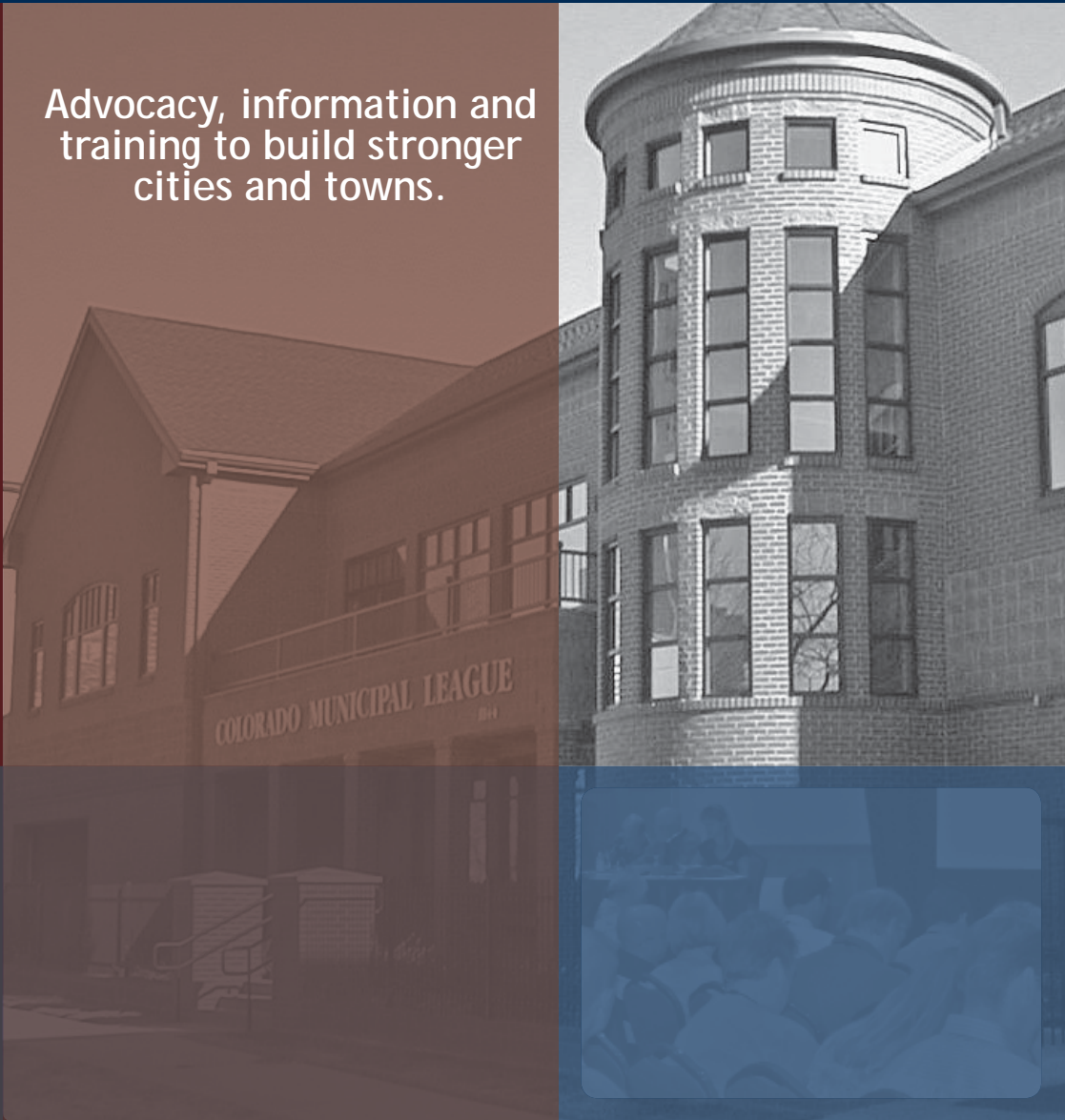


Prepared by the Colorado Municipal League, 2009

ELECTED OFFICIAL'S STARTER KIT

Advocacy, information and
training to build stronger
cities and towns.



CML

COLORADO MUNICIPAL LEAGUE

The Voice of Colorado's Cities and Towns

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TABLE OF CONTENTS

FOREWORD	i
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NOW THAT YOU ARE IN OFFICE	1-1
Elected to office? Your life will never be the same	1-1
Facing public prejudice	1-2
Facing the demands on your time	1-2
Facing the demands on your professional life	1-2

MODERN LEADERSHIP	2-1
Foreword	2-1
Leadership, what does it look like?	2-1
Some key characteristics of exceptional leaders	2-3
A final note	2-4
Suggestions for further reading	2-5
Bibliography	2-5

EFFECTIVE MEETING PROCEDURES AND TECHNIQUES	3-1
Introduction	3-1
Meeting preparation and procedures	3-1
The players - Roles and responsibilities	3-3
Involving the public	3-5
A final word on decorum	3-6
Resources	3-7

ETHICS	4-1
Selections from <i>The Ethics Handbook</i>	4-1
Amendment 41 and municipal officials and employees: A practical introduction	4-3

SELECTIONS FROM <i>THE HANDBOOK FOR ELECTED OFFICIALS</i>	5-1
Introduction	5-1
Carrying out the governing body's job	5-2
Resources	5-9
53 ideas: How governing body members can govern better	5-13

APPENDICES

- Appendix A: Webinar handouts: Open Meetings & Conflicts of Interest
- Appendix B: Webinar handouts: Public Officials Liability Basics
- Appendix C: Webinar handouts: Roles & Responsibilities of Elected Officials

FOREWORD

Welcome to your new role as a municipal elected official!

For many years, the Colorado Municipal League has been the #1 resource for training for newly elected officials through our popular workshop program. These workshops have historically focused on core issues that are “mission critical,” covering topics such as liability, ethics and conflict of interest laws, roles and responsibilities, and general orientation to your new position and the relationships you now have to fellow elected officials and your municipal staff.

As times have changed, CML has recognized the need to provide training resources in formats that are affordable and accessible to our members statewide. Traveling to traditional “in-person” workshops can be costly and time-consuming, and with busy personal and professional lives, training resources need to be available in a format that you can fit into your individual schedule.

That is why we are so pleased to offer you *The Newly Elected Official’s Starter Kit*. Using the core content areas that we typically cover in our training programs, we have developed this compilation of reading material and recorded Webinar presentations to replicate in some way the training experience. While there will no doubt be many opportunities in the coming years for you to attend a CML training program (and we hope you do!), this starter kit will point you in the right direction and provide the resources and tools you need to begin your adventure as a municipal elected official.

As always, we appreciate your feedback and suggestions for ways in which we can serve you better. Remember, CML works for you!

NOW THAT YOU ARE IN OFFICE ...

Congratulations! After many long hours, months, of campaigning, you have won. You are now an elected official. And whatever your office — mayor or councilmember — you are probably experiencing some ambivalence. On one hand, you feel very exhilarated by and looking forward to your new challenges. On the other, you feel somewhat incredulous, like you have just stepped into the Twilight Zone. It's pretty weird and you can't believe you did it. "Was I out of my mind? How'd I get myself into this? I feel like I have the whole world in my hands." Well, very simply, you declared your candidacy, vigorously courted the citizens, and you won! So, for better or for worse (hopefully, better), you are married to this office for a while, and you will do just fine.

Believe it or not, you have lots of company. There are many others just like you, and there are many veteran local elected officials who know those feelings all too well. They are more than willing to mentor you and share their experiences in getting adjusted in surviving as a newly elected official.

Several years ago, then newly-elected official Jacquelyn Gist, alderman, Carrboro, N.C., was in your shoes. But through this experience, she learned so many important lessons about herself and her new job in the small town of Carrboro that she decided to write about it. The following, "Elected to office? Your life will never be the same," is so candid and down to earth, that we thought it was worth reprinting in its entirety, to help you put things in perspective.

ELECTED TO OFFICE? YOUR LIFE WILL NEVER BE THE SAME by Jacquelyne Gist

Three hours into a town board meeting — covered as always by cable TV — I ran my fingers through my hair and a pink foam rubber curler fell out. I grabbed it and shoved it in my purse. When I got home, my machine was full of messages. People reported that they had watched to see how long it was going to take me to realize that I had a curler hanging from my hair. No one mentioned the awe-inspiring decisions I made that night.

A few months ago, I ran into a local musician who told me that he and his roommates always watched our "show." They had really loved the "episode" where we talked about requiring people to put their cats on leashes. (That motion failed, by the way.)

An elected official in a small town is a public person. People watch you more closely than you would ever expect — both politically and personally. And the people who let you know today that there is a curler hanging from your hair are the same people who will come to the town hall tomorrow with recycling concerns. The musician who loved the cats-on-leashes "episode" also wanted action on the late night noise from the car wash across the street. The owner of my favorite restaurant, where I have eaten weekly for 12 years, talks to me about property he has just bought that is in the watershed protection district. The woman who has cut my hair for 10 years finds out that her new house is next to one of the sites being considered for a new landfill. One of my close friends applies to the town for a small business loan. The list goes on.

I have lived in Carrboro for almost 18 years and I know a lot of people. The people I hang out with and do business with, the people I spend my life with on a daily basis, are the same people for whom I am sworn to provide sound governmental decisions.

Sometimes I feel like the sibling who is left in charge while the parents are out for the evening. If I let everybody do whatever they please, mom and dad will ground me. If I enforce the rules, my siblings will hate me. What if I really believe, based on sound judgment and good information, that the best place for the new landfill is next to my hairdresser's house? What if it is in the best fiscal interest of the town not to grant my friend a small business loan?

Newly elected local government officials typically enjoy a wonderful honeymoon period with constituents, staff and the press. To those of you still on your honeymoon — to others who would join you — I say, “Savor it.” Pretty soon, something magical will happen. You will undergo a metamorphosis and become a “them.” No longer will you be the person who would be able to solve your community’s problems if only you were on the board. Instead, you will become the one whom people tell how they would solve the problems if they were on the board. This metamorphosis typically takes place around budget time. Life will never be the same.

Facing public prejudice

Being on the Carrboro Board of Aldermen has changed my life in ways I never expected. Most perplexing is the new way people react to me publicly. To people who are not close to me, I am one of “them,” a politician. During my first four years in office, I was accused of being everything from a socialist to a conservative. It seems that lots of people have fixed ideas of who and what elected officials are, how we make decisions, and what motivates us. Suddenly, I find myself being prejudged based on the fact that I am an elected official in ways that are often funny, usually wrong, and sometimes downright insulting.

Last year at a diversity sensitivity workshop, my fellow participants and I were asked to tell about times when we felt we had been prejudged and how that had affected our lives. Without giving it any thought, I found myself talking about problems I have had that have stemmed from people’s biases against politicians — problems that had crowded out for that moment my serious concerns about problems I have faced as a woman. Even my family distrusts politicians! It is part of the job, and I guess I deal with it by working hard to serve in a way that allows me to look into the mirror without feeling ashamed. I still get mad if people accuse me of “acting like a politician,” but at least I know they are wrong.

Facing the demands on your time

When I was first sworn in a little over four years ago, I got something I hadn’t counted on as I campaigned. After the high of the campaign and of being elected, the excitement of seeing my name and picture in the paper every week, after the congratulatory letters and phone calls, after the intense sense of teary eyed joy I felt the night my mother held my family Bible for me during my swearing in — after all of these intense emotional experiences had passed — I found that I had a second full-time job. It required hours of reading, long meetings, and attention to hundreds of details. It was a job that required me to be an expert on areas that I knew next to nothing about. It was a full-time job that I was supposed to do after I finished the full-time day job that paid my bills. All of a sudden, instead of working eight hours a day, I was working 10, even 18, hours a day. And by nature I am a lazy sort. The life of a local elected official? “What life? I don’t have a life; I have meetings!”

That was kind of hard to get used to — all the hours of work and the never-ending meetings. When I was first running for a seat on the Carrboro board, I believed that the job entailed one meeting a week on Tuesday nights. Wrong! Instead, I find my typical week involves two to three lunch meetings squeezed into my job schedule, one or two 5:30 meetings, and two or three 7:30 meetings, in addition to that regular board meeting.

Facing the demands on your professional life

So, being an elected official has changed the rhythm of my waking hours and my perceptions of what is important in governance. It has also changed other areas of my life.

When I was first elected, I was working as a social worker in a small nonprofit advocacy organization. The agency’s work required frequent communication with human service, education, government and media organizations. After being in office a few months, I discovered that the people in these organizations would return my phone calls faster than they had before. Because of my public position, I suddenly had access to people that the agency had been trying to build relationships with. I was in a position to get public attention for the agency’s agenda, but I wasn’t even the agency’s director, although some people thought I was. And I felt uncomfortable, knowing that people were responding to my role as an alderman, not my role as a social worker, even if it was for a good cause. My newfound access to the community’s leaders strained my relationship with my boss, whose phone calls were not returned as fast as mine. I ended up changing jobs.

In my new job, I bend over backward to keep my political life and my professional life separate — and not just because I believe that I should do the job I am paid to do by my employer. It also helps to keep me sane and provides a justifiable escape from political life. It is nice to be able to tell people who call me about town business while I am at work that I am really sorry, but I will have to ask them to call me at home after work. I have found particular satisfaction in telling people who call to yell at me about things like wasting tax dollars on overpaid employees that I am sorry, but I will have to call them after I get off work because my employer doesn’t pay me to spend time dealing with town business. They have a hard time arguing with that!

I am pretty certain that I now have the ability to block out the personal and political implications of decision making. It is one of life’s harder things to do, but I try hard. I believe that my job as an elected official is to serve the best interest of my whole town, not just of those who voted for me or, even harder, not just of those who are my friends. There have been several meetings where I was shaking as I voted my conscience and then went home and cried. I remember reading

a tall tale years ago about a couple who moved to a small New England town where every year a harvest king is chosen from among the men of the town. For a year, the harvest king reigns supreme. Everyone fawns on him and all his needs are satisfied to excess. The husband decides that this looks like a pretty good deal and begins a ruthless campaign to be crowned harvest king. He is successful and very excited. On the night of the coronation, when he is to take his place as king, he shows up at the ceremony, is crowned, and then learns that his first duty is to watch the execution of his predecessor. All that work, all the honor and attention, and then they kill you! In my darker political moments, I think of that story.

But sometimes I am able to do something that has a tangible positive effect on the town that I love so much. And it is a wonderful feeling to drive through a neighborhood that is a little safer because of an action I was part of, or to see people using bike lanes and sidewalks I helped to get. It is really satisfying to know that every now and then it matters to somebody that the board took a positive action. When I was working the polls on the day I was up for re-election, people would come up to me and say things like, "I am voting for you. I don't always agree with you, but I trust you." An old-time conservative told me that in front of my mother. I felt like I was in a Norman Rockwell painting!

Being an elected official has affected me publicly, professionally, and socially, but it has also changed me privately. It has changed who I am and how I define myself as a person. My best friend — a calm, rational attorney — says that I am much tougher than I was four years ago and, in her words, much less gullible. She tells a story about something that happened when I first ran for the board. I had not been endorsed by the Home Builders Association, but I did receive a \$50 campaign donation from two builders and a lovely note saying that they had supported me and were sorry that I had not gotten the group's endorsement. I thought that this was really sweet and told my friend about it. "Sweet?" she said. "Don't you know that they are planning to build the new subdivision behind your house?"

Then there was the time that a developer looked me straight in the eye and told me that our development ordinance would not allow him to save trees or open space, even though he wanted to. I apologized for the inadequacy of our ordinance and ran off to talk to the town staff about ways to fix a horrible problem that was keeping these good people from doing the right thing. The staff informed me that they had offered the developer numerous options to preserve the woods and open space, all of them allowed in our ordinance, but that he had rejected every one. A few weeks later, when I voted against the guy's proposal, he turned to a mutual friend and asked, "Why did Jacqui vote against me?" Our friend said, "Well, you lied to her." "But I had to!" the developer replied.

After several incidents like this, I began to be less willing to just believe anything someone told me. I don't think that people lie a lot in the political arena; it's just that they only tell that part of the story that makes them look best or promotes their interest. So I have had to work toward developing a way of reserving judgment.

This runs counter to my personality, and I now find that in all areas of my life, I am not as trusting as I once was or as I would like to be. I feel that I have lost a part of me that I liked.

I am also not always very nice anymore. I used to work very hard at being nice, because it seemed like the right thing to do. After a year or so on the board, I began to get the feeling that I was sometimes being taken for a chump. Staff members, neighbors, and business people would come to me with issues or problems — they would come and tell me horrible stories and I would rush right out and try to fix them. Often I would learn later that they purposefully had been playing to my social work side and had misled me. After a few particularly blatant incidents, I stopped trying to be everybody's friend all the time and realized that providing sound, well-reasoned leadership meant that there would be many times when not everyone would like me. So, I am not so nice anymore, but I am a better alderman.

The effect has spilled over into my private life. In matters having nothing to do with town business, I am also not so concerned anymore with trying to make everyone happy all the time. I figure I work hard, try to be fair, and use my best judgment. That is what people have a right to expect. If they don't like it, it's not my problem. Four years in public office is more productive than 10 in therapy. Finally, I am no longer afraid to be wrong or to admit that I made a mistake. I have found that being willing to change your mind or reverse your stand on something doesn't really bother or offend anybody except the press, and who cares what they think? (Well, I do, but I try not to let it affect me.) The longer I am in this job, the more I learn that what is really important is getting the best possible decisions made in a manner that allows the community to have faith in the integrity of those decisions. My personal reactions or political needs are secondary. When I was first elected, I was always worrying about how I did in meetings. Now I worry about what I did — Did the meeting have the outcome I wanted it to? Sometimes getting to that point means not pleasing everybody, disagreeing with my friends, saying "no" to allies, publicly changing my mind, and admitting that I was wrong.

Recently all of this happened in the same meeting! For three years I had been going to meetings of the leadership committee of an intergovernmental task force on crime. At one particular meeting, I along with a fellow member of the board of aldermen, was to present the recommendations of a subcommittee on youth. We had worked on the recommendations for months, and my friend and I had spent weeks working out how we would present the recommendations and exactly what we wanted from the leadership committee. We needed money, legislation, and political support. This was serious stuff. Well, to start with, the meeting had been moved from its regularly scheduled 5:30 start to 5 p.m. I was so used to going at 5:30 that I hadn't bothered to check the meeting time on the agenda and

I cruised in at 5:30. Our presentation had been first on the agenda, so they had moved it back because I was late. After that embarrassment, my colleague finally made our presentation and the group began discussing it. Overall, they were supportive. Then the committee chair said, "Let's refer this to the three managers for a recommendation." The week before, after much argument, our group had decided that this was what we wanted and were hoping for just such an action by the committee. But based on my original reservation, which I had finally overcome, I automatically started arguing against it. "No," I said, "if we refer it to staff, it'll get watered down and lost." My fellow alderman stared at me, wishing, I am sure, that he were close enough to kick me. I suddenly realized what I had done, took a deep breath, and said, "I take that back. I do want it to go to staff. Sorry." People looked at me like I was crazy. But the motion carried. Later in the meeting, I also managed to inadvertently insult Chapel Hill's mayor, and then I left before the meeting was over to go teach a workshop. I felt stupid and embarrassed, but the meeting had the outcome I had hoped for. Daddy always said that life ain't easy.

The day after that weird experience, I had lunch with my mentor and friend, Sue, who is on the school board, and I said, "How on earth did this happen? How did we get to be in charge? If we mess up, there is nobody higher up to fix it. We can really do damage!" Sue replied, "Well, it took you four years, but you finally figured it out."

I ran for town council on issues of social change, but then I found out I was supposed to make decisions on sewer pipes, acres of impervious surface, transition zones, and intergovernmental fund transfers — stuff we hadn't really covered in my days at the School of Social Work. So I now find that maybe a few times a year I deal directly with the issues I first ran on. I had thought that I could march into office and say this, this, and that need to change and this is how we are going to change them — ta-da! It's all fixed! It took me about two years to learn that even my brilliant ideas weren't new and that if there were simple overnight answers to my community's problems, they would have happened long ago. This has been hard to convey to the small group of social change and environmental activists who first encouraged me to run for the board. They now accuse me of being, horror of horrors, a "moderate."

But I have learned that it is not big flashy headline-grabbing political actions that determine the quality of government in a town. It is the small details, the product of long meetings and hard work, that determine the quality of town policy. In the long run, the boring meetings on zoning, sewer, budget, and personnel have a more profound effect on social justice or environmental integrity than do a bundle of flashy resolutions.

The bulk of board work that truly affect the day-to-day lives of people goes by without much notice. I have learned that responsible stewardship for a community is the real job of an elected official.

I love Carrboro (some would say to the point of obsession) and I worry a lot about doing something that would harm it. I also love being an elected official (some would say to the point of obsession). It is the place where those two obsessions clash that I find most personally terrifying. The point where what is best for Carrboro may not be what is best for me politically. I had to face that monster in the 1993 election. There was a hotly controversial issue that came up in the late summer and early fall just as I was gearing up for my re-election campaign. I wished that it would wait until December, but it didn't. I drove my friends crazy worrying about it, but decided that my political life was less important than the welfare of the town, and I stuck by my position. October was hell, election day was tough, but I won by a large margin. At the time, I swore I would never go through that again. But I know I will.

So, to newly elected officials, I say, "Welcome to the strangest club in town." It may be hard, it may be wonderful. You may have moments when you want to just throw in the towel. But when all is said and done, it is easier to be on the council than to sit by and watch some other group of idiots mess things up. Good luck, and have fun!

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MODERN LEADERSHIP

FOREWORD

Wanting to lead and believing that you can lead are only the departure points on the path to leadership. Leadership is an art, a performing art. And in the art of leadership, the artist's instrument is the self. The mastery of the art of leadership comes with the mastery of the self. Ultimately, leadership development is a process of self-development.
– James Kouzes and Barry Posner, *The Leadership Challenge*

What does it take to be a good leader?

Becoming a leader is largely due to self-determination, and developing your leadership skills must be the result of a decision on your part to become a better leader. And, as a public official, you have a unique responsibility to do so. When you make the decision to run for public office, your community does, and should, expect nothing but your best efforts to be an effective leader. The good news is that most people have basic, common core competencies that provide the “raw material” for good leadership. What makes a great leader is the ability, through deliberate actions and experience, to shape and hone those core competencies to maximum benefit.

LEADERSHIP, WHAT DOES IT LOOK LIKE?

Old leadership models were centered on the idea that strong leaders had a command-control approach. That theory worked very well for many industrial-age corporations, many of which grew into empires that exist today. However, the world we live in is remarkably different than it was for the generation before us. When this command-control leadership model dominated, the environment that many organizations were working under was highly ordered and predictable. As a local government official today, you simply need to look around your community to understand that it is anything but ordered and predictable! With the constantly changing demographics, trends and globalization, the only certain thing in today's environment is change itself. With a dynamic environment we must find and cultivate dynamic leaders.

As an elected official, you are a leader, and your community's destiny is in your hands. Will you be a command-control leader, floundering in world of change and flux, or will you be a dynamic leader, ready to learn and grow in your capacity? The good news is that you can determine what kind of leader you'd like to be and, with careful thought and reflection, you can learn the habits and traits of good leadership to emulate.

The servant-leader

During the Iran-Contra scandal, at the conclusion of his testimony to the Senate committee, George Schultz was asked by the chairman, “Do you have any advice for the American public?” His answer? “Don't give power to people who can't live without it.” There are limits to the concept of “power” and the role of ego in elected office.

The idea of a servant-leader is a relatively new one. In the command-control leadership model, the leader dictated his/her desires to subordinates who then did what they were told. The servant-leader model turns that notion on its head by suggesting that the leader is actually working for the subordinates, providing support and resources needed to get the job done.

The servant-leader model fits well with elected office – you are, after all, a public servant. Elected officials are there to serve the community and fulfill the public trust. Officials are not there to fulfill their own egos and demonstrate how intelligent and “right” they are. An elected official defines and clarifies the problem (leader), then empowers the municipal staff to do what is necessary to solve the problem through the appropriate authorization and resources (servant) and, once

the task is complete or the problem is solved, the official acknowledges and thanks those involved in the success (leader). The servant-leader changes roles dynamically as the problem or task unfolds – first as a leader by clarifying the issue and providing direction, next as a servant providing the necessary support and, lastly, as a leader once again, crediting those involved with the success. Just as leaders should not be “those who cannot live without power,” neither should they be people who must hoard all the credit for themselves.

The question of ego

When discussing aspects of “power,” the question, “Does ego have a place in the life of an elected official?” must certainly be considered. The most politically correct answer would be “no” – ego tends to imply negative connotations. For elected officials, the actual answer is “yes, but...” First, the importance of ego. Running for office is a challenge, and even at the local level, the going can get tough. Officials may not only find their opinions and views on issues attacked, but also may have their personal affairs attacked. Having a strong ego can help weather the difficult situations, not by countering the attack with assertions of being “right,” but by providing the confidence and internal strength to carry on. In elected office, ego can be equally valuable when taking harsh criticism of decisions. Some of the criticisms may be groundless, but during the times when the criticism and negative feedback is valuable, having a solid self-confidence will allow officials to check emotions at the door and actively listen to and appreciate the constructive criticism.

Reality check - understanding strengths and weaknesses

Being a good leader is not as elusive as it may seem – good leaders aren’t born, they are made through careful study and deliberate development of leadership qualities. One of the most fundamental exercises in developing leadership potential is a simple analysis of strengths and weaknesses.

When taking inventory of strengths, think not only of credentials and learned abilities and knowledge, but also of natural assets. For example, a councilmember with background in engineering can lend expertise to a discussion of the new wastewater plant. The same councilmember may be an exceptional communicator and able to summarize discussions and ask clarifying questions. By identifying these traits, leaders are able to use the full range of their strengths.

Understanding weaknesses is an equally valuable exercise. There are some weaknesses that can be changed – perhaps an individual is not well versed in proper meeting management. This can be remedied through a training course or reading on the subject. Other weaknesses are more innate, part of who we are and more difficult to change. These, too, do not have to stand in the way of leadership skills. By simply identifying and acknowledging weaknesses, one can mitigate their affect on other, stronger leadership qualities.

Finally, good leaders understand the importance of being dynamic. Think of your community – chances are it has seen its fair share of change in recent years. What “worked” a few years ago probably doesn’t quite fit now. Likewise, a community’s leadership needs likely has changed as well. An individual may have brought certain leadership qualities and assets to the position a few years ago that were very useful for the community at that time. But the needs may have changed – and leaders should change, as well. Each person has many strengths to offer the community, good leaders adapt to the changing needs around them, making themselves as relevant and necessary to their communities today as they were the day they got elected.

Decisiveness

A look in the dictionary under “decisiveness,” shows a variety of descriptive words: conclusive, firmness, resolute. Being decisive can be challenging as an elected official – balancing multiple interests, values, and trade-offs. Being decisive means taking a position, and when it’s a tough issue, taking a position can be very uncomfortable.

This is, unfortunately, all part of the role of an elected official. While sometimes decisions will be painful and controversial, an official could be doing the community a disservice by endlessly hemming and hawing over an issue and dragging out the final decision, thus allowing emotions, resources and discord to gain further momentum. While there is a time and place for careful consideration and weighing of all the facts (which is indeed another obligation of the elected official), there comes a time when a decision must be made and there is an equal obligation to do so. While there are no hard and fast rules determining when “decisiveness” is required, simply understanding the human inclination to avoid making tough decisions will help identify possible situations when a decision is being unnecessarily delayed.

Likewise, when considering the terms used to describe decisiveness (conclusive, firmness, resolute), being a leader means being assertive – make a decision and let there be no question that you are behind the position 100 percent. When exercising leadership in a political environment, fellow council or board members rely on each other to stand behind a decision; and citizens also expect and deserve assertive and decisive leadership.

SOME KEY CHARACTERISTICS OF EXCEPTIONAL LEADERS

Problem-solving

Have you ever been to a “problem-solving meeting” where many issues are addressed, but the core problem isn’t solved? This can be an immensely frustrating experience, and for an elected official, time is very limited. Good leaders understand the importance of systematic problem solving – by using logical thinking and good human relations skills, leaders can draw practical solutions. When looking at a particular problem, it is natural to think of it in a “big picture” context. For example, Main Street is riddled with potholes. An elected official naturally thinks about the problem as it relates to the budget and capital improvement plans. While this is important and has an appropriate place, it is equally important to be able to focus on the immediate problem at hand and not be overwhelmed by insurmountable obstacles. Effectively leading through a problem-solving process requires clarity and, in many cases, a clearly defined problem is a half-solved problem. Some authors have related a systematic problem-solving method to a traditional scientific method, a process that resembles the following:

1. Clearly define the problem
2. Collect the facts
3. Identify the causes of the problem
4. List the driving forces
5. List the restraining forces
6. Generate alternative solutions
7. Evaluate the alternative solutions
8. Develop a plan of action
9. Implement the plan of action
10. Follow up

Following a logical, “scientifically-based” process doesn’t guarantee a problem-solving process will be free of conflict. In fact, conflict is a natural and necessary component to achieving the best solutions. Leaders understand the necessity of conflict, of “playing the devil’s advocate” because it can reveal aspects of a problem and tangential issues that may not have otherwise surfaced if everyone was in agreement. When respectfully managed, conflict can lend tremendous creativity and thoroughness to a problem-solving process.

Information and networks

Related to problem solving, good leaders understand the importance of information and networks. Information can take a variety of forms and, in today’s digital age, information is more accessible than ever. However, such availability of vast information can be a detriment – too much information can be paralyzing by clouding the problem with numerous peripheral facts and figures. Without proper application, information is just that – facts and figures. Information becomes knowledge when it is targeted and useful, and good leaders learn to sharpen their eye toward information, correctly siphoning out what information is really needed (knowledge) and knowing where to go to get it. An elected official is required to be a generalist – she/he must have a basic understanding of an enormous realm of public issues. It is unrealistic to be an expert in any one topic, therefore, officials must learn to rely on the available resources. In many cases, this will mean relying on municipal staff and their ability to find the appropriate information that is needed and to help translate that information to knowledge.

On a similar note, good leaders understand the importance of networks. The term network is often used to imply social circles, but in the context of leadership, its significance relates to resources. Think of the last time you were at a networking event involving fellow public officials. Perhaps it was something more socially-oriented, like a dinner, or perhaps it was more formal, such as a training or workshop. What information did you share with your peers? What information did they share with you? Knowing what your networks are, and who your potential sources of information and knowledge are, can help you and your colleagues be more efficient in your job. You can save yourself, your colleagues, and your municipal staff a tremendous amount of time by leveraging your networks to gain advice, knowledge and wisdom on any number of issues you face in public office.

Quality and achievement

Leadership is easy when times are good – when revenues are strong, when there is good management among the municipal staff, when the community supports the local government, and projects and initiatives are progressing as planned. The mark of a good leader, however, is someone who can weather the ups and downs – not simply by retaining their position, but by ushering the community through challenging times. It’s when challenges arise that true leaders are put to the test. Good leaders have a constant emphasis on quality and achievement through it all, both in their own behavior as well as the goals they set for their community. Simply put, they seek out the positive and celebrate even the small achievements. At the same time, these leaders acknowledge and face their challenges, but draw on success stories, an established tradition of quality and achievement, to inspire solutions to the challenges facing their community. As an elected

official, this can be a difficult task. Very often, when challenges arise, officials find themselves and colleagues in the spotlight and subject to criticism. It's at these moments, though, when a community most needs clear focus on the positive accomplishments and an honest, but optimistic, acknowledgement of challenges.

Responsibility

There will be times during the career of an elected official when it will be difficult to move forward on issues of importance. With so many interests and priorities to balance, there are some that simply cannot be accomplished, no matter how much you or a constituent group wants them. When things don't go your way on council, how do you explain it to others? It's tempting for those who do not succeed in getting what they want to play the victim. How easy it is to shift the attention and blame to some outside force. For example, "I tried to argue for the new skate park, but no one would listen to me," or "I think others on council already had their minds made up on this one," or "in the end, this really was just a political decision," are the excuses of someone who is a "victim." By using statements like these, they are essentially shifting attention away from themselves while undermining the collective decision of the council or board that they should be supporting.

A responsible leader would view these disappointments differently. Rather than whining and complaining, a responsible leader copes, takes full responsibility for his or her actions, and shifts the focus toward dealing with the problem rather than making excuses for why it didn't go their way.

So how do we become responsible leaders? Here are some thoughts on responsibility in action:

1. Be aware of victim behavior. Think of recent experiences and identify times when you may have acted more like a victim than a responsible leader. Think of what some more appropriate responses might have been. Simply being aware of this behavior will help minimize the times when it may sneak up on you.
2. Be dependable. Be cautious of the commitments you make – once you make a commitment, follow through. If you can't guarantee a certain outcome, don't make the commitment!
3. Understand that there will be times when you are conflicted – you'll be stuck between two equally important and valuable options. Remember, as an elected official you have a special obligation to your city or town, and there will be times when you will need to do what's best for the community, even if it involves a personal cost.
4. Know that there will be times when, no matter what you do, there will be someone in your community who will disagree with your decision. While these individuals or groups may not agree with you, they will certainly respect your accepting responsibility for your actions.

A FINAL NOTE

Leadership and elected office

Throughout this handbook, the discussions of leadership qualities have used very real examples of what you may experience as an elected official. In discussing different approaches to leadership, the "servant-leader" model is highly relevant to elected office. Warren Bennis, an acclaimed researcher of leadership traits in top executives, said, "leaders are people who do the right things and managers are people who do things right." Leaders, in the context of elected office, are responsible for their community's overall direction and vision. Managers, or municipal staff, are responsible for the day-to-day task of implementing the direction and vision in the most effective and efficient manner possible. For this elected official-staff relationship to operate effectively, trust must be a constant underlying theme. The public trust is your personal responsibility while in office; and you must have genuine and consistent trust in the municipal staff carrying out your vision and direction.

Maintaining this dynamic can be difficult at times, particularly in a political environment. Problems and conflict are inevitable. As an elected official, however, you are a problem-solver and, as discussed previously, conflict can be respectfully managed to enrich and bring creativity to the problem-solving process. Additionally, information and networks are important. Problems and conflict can be minimized by establishing – and actively using – your networks and trusting the expertise and knowledge of your municipal staff.

As an elected official, you are expected to facilitate your community's progress. That can be an exciting chapter during your tenure in office, but also can be wrought with additional challenges. Understanding the importance of responsibility, quality and achievement, and having an optimistic attitude toward challenges can inspire solutions during even the most difficult times. Good leaders understand that with any new endeavor, mistakes are a natural part of the learning process. Imagine if we only pursued new initiatives that were guaranteed to succeed, with no mistakes or setbacks along the way. Progress would come to a complete halt. Leaders learn to embrace mistakes and missteps as opportunities for improvement and insight, not threats to the overall success of the community or municipality. Indeed, possessing and applying only individual leadership qualities do make a good leader – it is the combination and application of numerous traits and characteristics in tandem that together create empowering leadership, creativity and progress.

To reiterate the themes introduced in the beginning of this handbook, leadership is an on-going and deliberate process of self-development. True, some people are blessed with charisma and seem to gravitate naturally into a leadership role, but

good leadership is far more multi-faceted, requiring many other skills and traits. The topics discussed in this handbook are merely highlights on some of the traits and characteristics of good leaders – through your own experience, you will likely learn and develop many more. The purpose of this handbook is to inspire confidence in yourself. As quoted by Kouzes and Posner in the opening section, “Wanting to lead and believing that you can lead are only the departure points on the path to leadership.” By entering public office, you have taken that first step toward leadership – by applying common sense, careful study and reflection, and a personal commitment to your own self-development, you are well on your way to exceptional leadership and true service to your community.

SUGGESTIONS FOR FURTHER READING

- *An Invented Life: Reflections on Leadership and Change*, Warren Bennis
- *Art of Leadership*, George Manning
- *Building Community*, George Manning
- *Good to Great*, Jim Collins
- *Insights on Leadership: Service, Stewardship, Spirit, and Servant-Leadership*, Larry Spears
- *Leadership from the Inside Out*, Kevin Cashman
- *Leadership is an Art*, Max Depree
- *Leadership Jazz*, Max Depree
- *Leadership Without Easy Answers*, Ronald Heifetz
- *Leadership: Theory and Practice*, Peter Northouse
- *Leading Change*, Jim O’Toole
- *Leading Minds: An Anatomy of Leadership*, Howard Gardner and Emma Laskin
- *Leading With Soul*, Lee Bolman and Terrence Deal
- *Learning To Lead*, Warren Bennis and Joan Goldsmith
- *The Leader of The Future: New Visions, Strategies, and Practices For The Next Era*, Marshall Goldsmith
- *The Leadership Challenge*, James Kouzes and Barry Posner
- *The Leadership Triad: Knowledge, Trust, and Power*, Dale Zand
- *The Power Principle – Influence with Honor*, Blaine Lee

Thanks to Susan Wehrspann of Wehrspann & Associates for her help compiling this reading list.

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Wareham, John, *The Anatomy of a Great Executive*. HarperBusiness, New York: 1991.

This chapter was compiled and written by CML Membership Services Manager Sara Reynolds.

EFFECTIVE MEETING PROCEDURES AND TECHNIQUES

INTRODUCTION

Need for rules of procedure

Every legislative body should adopt a set of rules by which to operate. These rules can be simple or detailed; they can incorporate *Robert's Rules of Order Newly Revised*, or another set of prepared rules. Alternatively, the council or board may establish their own rules. The goal is to guide the council or board; make the legislative process more efficient, stable and predictable; and reduce disputes concerning correct procedure.

Rules of procedure not only protect the minority from arbitrary use of power by the majority, but they also protect the majority from the capricious use of power by the minority to thwart the wishes of the majority. Rules of procedure can help reduce interpersonal friction, result in better decisions and add to the credibility of the council or board.

In addition, there are other practices and techniques that help the council or board operate more as a team, instill confidence in the municipal government and otherwise serve the public interest. Some of these suggested practices and techniques are included in this handbook.

Regardless of procedures used by a governing body, it is important that the procedures emphasize openness to the public, scrupulous fairness to all sides of the issues presented before the council or board, and consistency. Whether the meetings are formal or informal, incorporate Robert's Rules or follow their own unique procedures, these three basic objectives should be accommodated.

Finally, it is important to note that there is no single "right" way to conduct an effective meeting and, in some cases, the items discussed in this handbook may be legally prescribed in a municipality's ordinances or charter. This handbook is intended to provide a general snapshot of procedures and information that should be relevant and useful to many municipalities. When in doubt, elected officials are advised to consult with their municipal attorney to determine what legal requirements may be in place.

MEETING PREPARATION AND PROCEDURES

Meeting routine

The meeting routine or the established order in which various categories of business are to be considered by the governing body differs somewhat from one municipality to another. Despite variations in arrangement, most agenda formats may be divided into two categories: (1) procedural items of business that occur at most meetings, including the roll call, opening ceremonies, reading and approval of minutes, etc.; and (2) substantive items of business that may vary from meeting to meeting and include public hearings, ordinances, resolutions, etc.

There is no single correct order of business for municipalities to follow and state law does not require any particular order. Many cities and towns, however, have prescribed an order by charter, ordinance, resolution or the body's rules of procedure.

While variations on the order of business abound, a fairly common order might look like this:

1. Call to order
2. Opening ceremonies and proclamations
3. Roll call
4. Reading and approval of minutes
5. Public comments

6. Reports from officers, boards, committees, the municipal manager and/or the municipal attorney
7. Public hearings, final reading and voting on ordinances
8. Unfinished business
9. New business
10. Extended public hearings
11. Adjournment

Some of these general categories may include:

Opening ceremonies

This is optional for municipal governing bodies, and may include an invocation and the Pledge of Allegiance. Some councils and boards follow this section with a “Ceremonies and Proclamations” section during which they present special citations and awards.

Reports from officers, boards and committees

The mayor, chair, manager, attorney, treasurer or finance office, or other department heads may have reports to present, and standing and special committees and boards report their findings or recommendations.

Public hearings, final reading and voting on ordinances

Ordinances that are before the council or board for the final reading and voting are placed on the agenda at this point.

Although some municipalities, such as statutory towns, may enact certain ordinances at the same time they are introduced, most ordinances must be brought before the council more than once. Introduction of ordinances occurs under New Business.

Unfinished business

This category includes business that was not disposed of at the preceding meeting or that was postponed to the present meeting. Unfinished business should only include items of business that meet these criteria and that cannot be properly placed under any other agenda item.

New business

Notices, petitions, recommendations, ordinances on first reading and resolutions are placed under new business. Many of these items need to be processed in some manner before being presented to the governing body for disposition. They, therefore, may have been previously referred to a member of the city or town staff or to a committee or board. When such items – with the requested recommendations, comments, or information from the staff member or committee attached – are placed on the agenda, they are classified as new business because no substantive action has yet been taken by the governing body.

The presentation of bills, invoices and claims, and the authorization of warrants, occurs under new business

At the end of new business, board or council members are often given a chance to make comments, give reports on meetings they have attended, or discuss citizen complaints they have received. Following this, the chairperson asks for or makes any announcements and requests a motion for adjournment.

The role of the agenda

A meeting agenda is the statement of the purpose for the meeting and the basis of all planning for the meeting. A written copy of the agenda is therefore prepared in advance and distributed to council or board members, citizens, the media and other interested persons to inform them of the items of business to be considered.

The municipal clerk or manager often prepares the agenda. This responsibility varies and is usually set by the governing body. In addition, the clerk or manager follows the appropriate public notification procedures as outlined in state statute.

Agenda analysis (Are meetings too long?)

An agenda should include only as many items of business as can be considered in the time allotted for the meeting. Some effort should be made, therefore, to estimate approximately how much time agenda items will take, and to take these time estimates into consideration when planning the meeting. If there are 32 items on the agenda and each item is estimated to take “only” 10 minutes, the council is in store for a six-hour meeting. Some method to eliminate or consolidate the agenda items should be considered.

Reducing the number of items placed on the agenda is often a difficult task, especially when certain decisions must be made by the governing body, and when citizens have a right to know the reasons behind decisions. In such a case, some ideas to eliminate or consolidate agenda items are:

Time-saving ideas

1. A specific type of decision may be handled by an administrator, with a brief summary report being made to the board or council from time to time.

2. The board or council may establish policies to handle reoccurring decisions, then direct staff members to follow the policy.
3. Items may be handled by a committee, which does the initial gathering of opinion and facts, organizes the information and recommends a course of action to the council or board. (CAUTION: Committees don't always save time; in fact, they may actually add to the work of the governing body. They must be used wisely and sparingly, and their use should be evaluated to see if they are reducing or adding to the workload.)
4. The council or board may evaluate whether items are being postponed to future meetings when they could be dealt with at the present meeting. While decisions should not be made in a casual or hasty manner, council and board members should resist postponing items in the hope that, at the next meeting, a whole new set of facts will surface and make the decision easier. The "new set of facts" may make the decision more difficult and "perfect" solutions rarely materialize. Delay, when it results in a better decision, is commendable; but delay so that an official does not have to act on a sticky question may be inefficient and irresponsible.
5. The city council or town board may set definite times for the meeting to come to order and to adjourn. Few council or board meetings achieve much of value after four hours, and three to four hours is usually enough time to allocate for most meetings. Time limits also may be set for special hearings that are not required by law, for citizen participation periods and for the debate by council members and trustees. (Any council or board that wishes to set time limits for an entire meeting should refer to the special orders section(s) in Robert's Rules of Order Newly Revised.)
6. Establish a consent agenda.

Consent agenda

A consent agenda allows the board or council to approve several items of routine business with one vote. Considered to be one category of business, the consent agenda contains routine items that are not controversial in nature and do not require further discussion.

Each governing body can determine which items of business are routine and can be placed on a consent agenda. Typical consent agenda items might include:

- Approving minutes
- Receiving and filing reports
- Receiving, filing, or referring communications
- Approving license applications and bonds
- Approving payment of contracts
- Approving certain appointments and accept resignations
- Approving finance warrants

It also is important to note that items can be removed from the consent agenda, often at the request of a single council or board member, for consideration by itself.

Study sessions

Study sessions are a common way for councils and boards to manage the time of formal meetings more effectively. Study sessions are meetings held outside of the regular council or board meeting primarily for educational purposes. Certain issues before the council or board are more complicated than others, and therefore require extra time and depth that is difficult to accommodate in a regular council or board meeting. Many councils and boards choose to have study sessions on a regularly scheduled basis, while others opt to have study sessions on an as-needed basis. By conducting the majority of the in-depth discussion at a study session, time allotted during the regular council or board meeting can be reserved for public input and formal decision-making.

Executive sessions

State law specifies in detail subjects that can be considered in executive sessions and procedures for calling and conducting executive session. These legal requirements should be carefully adhered to and, when in doubt, the municipal attorney should be consulted.

THE PLAYERS - ROLES AND RESPONSIBILITIES

Presiding officer

The presiding officer is the director and leader of any meeting of the municipal governing body. It is his or her responsibility to see that the meeting moves forward in an orderly fashion, that discussion is guided and controlled, and that the meeting runs as smoothly as possible.

The presiding officer has the principal duty to maintain order and decorum in the meeting of the governing body. Robert's Rules suggests 10 separate duties for the presiding officer, including:

1. Call the meeting to order and ascertain the presence of a quorum.
2. Announce and maintain the agenda.
3. Recognizing members entitled to the floor.
4. State, take the vote and announce the results of the vote on all questions legitimately put before the body.
5. Refuse to recognize obviously frivolous or dilatory motions.
6. Enforce procedural rules pertaining to debate, order and decorum.
7. Expedite business within the procedural guidelines adopted by the body.
8. Decide all questions of order, subject to appeal or, if in doubt, submit them to a vote of the body.
9. Respond to inquiries on parliamentary procedure or factual information relevant to the proceedings.
10. Upon the adoption of a motion to adjourn, or in the case of a sudden emergency, declare the meeting adjourned.

City council and town board meetings are formal meetings and, above all, the presiding officer should know and enforce the council or board rules of procedure and parliamentary law. It is the presiding officer's duty to see that all members know and understand the rules being applied. The municipal attorney may be very helpful in explaining parliamentary and procedural rules, when needed.

Mayor pro tem

When the presiding officer is absent from a council or board meeting, the mayor pro tem (or in other cases, the president pro tempore) presides. The mayor pro tem is a member of the council or board and has been elected or appointed to his or her position by the governing body.

Council and board members

The corporate and legislative authority of nearly all Colorado municipalities is vested in either a city council or town board, which is generally composed of between seven and 13 representatives chosen by the electorate for fixed terms of office. As previously discussed, the presiding officer is a member of the council or board.

All members of the municipal governing body have the right to full participation in the proceedings. That is, a member has the right to make motions, to speak in debate on motions and to vote on all questions put before the council or board. In some municipalities, the mayor votes only in case of a tie.

Agenda item discussion in a nutshell

Meetings normally have a written, published agenda, which constitutes the body's agreed-upon road map for the meeting. While there are several approaches to agenda item discussion and no single "right" way to conduct the discussion, one possible format follows.

1. The presiding officer or chair (normally the mayor) should announce the agenda item and briefly describe the subject to be discussed.
2. The chair should invite the appropriate people to report on the item and provide recommendations. The appropriate people may be a member of the governing body, a committee chair, or a staff person responsible for providing information to the body.
3. The chair should then open the agenda item to the council or board to ask questions.
4. If appropriate, the chair may invite public comments after the council or board has had the opportunity to ask their questions about the agenda item. More information on involving the public is available in Section 6 of this handbook.
5. Once the public comment period (if applicable) is over, the chair can request a motion to be made from the governing body. A second is typically required to ensure that more than one person on the board or council is in agreement with the motion before the question is posed to the rest of the body for vote. The chair may wish to announce who made the motion and the second for purposes of meeting minutes.
6. Once the motion has been made and seconded, the chair can entertain debate from the council or board. If little or no discussion takes place, the chair can proceed directly to the vote. If the discussion is more lengthy, the chair may wish to restate the motion to be sure that everyone understands the question before them before taking a vote.
7. After closing the discussion, the chair calls for a vote. The vote typically involves asking for the "ayes" and then the "nays." Unless specific legal provisions require a super majority, a simple majority is all that is needed to pass a motion. The chair announces the results of the vote and may note the dissenting votes for the purpose of meeting minutes.

Motions in a nutshell

Motions are vehicles for decision-making. There are three basic types of motions:

The basic motion

The basic motion is the one that puts forward a decision for consideration. A basic motion might be: "I move that we create a five-member committee to plan our annual fundraiser."

The motion to amend

If a member wants to change a basic motion under discussion, he or she would move to amend it. A motion to amend might be: "I move that we amend the motion to have a 10-member committee."

The substitute motion

If a member wants to completely do away with the basic motion under discussion and put a new motion before the governing body, he or she would "move a substitute motion." A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year."

Motions to amend and substitute motions are often confused. They are very different, and so is their effect, if passed.

- A motion to amend seeks to retain the basic motion on the floor, but to modify it in some way.
- A substitute motion seeks to throw out the basic motion on the floor and substitute a new and different motion for it.

Other types of motions

Beyond the basic motions listed above, there are other types of motions that are used on occasion during meetings. For more information about the types of motions and examples, please refer to Robert's Rules of Order, Newly Revised.

Privileged motions are matters of urgency, such as a motion to adjourn or recess.

Incidental motions are motions that pertain to matters of procedure, such as enforcement or suspension of the rules and objections to the main motion.

Multiple motions

Up to three motions may be on the floor simultaneously. When two or three motions are on the floor (after motions and seconds) at the same time, the first vote should be on the last motion made.

INVOLVING THE PUBLIC

How the governing body handles citizen participation can affect the meeting and the impression citizens have of their municipal government. For example, if the council or board has made no specific provision for citizen participation, any item of business may be sidetracked by a citizen who wishes to speak. It is, therefore, important that the governing body decide how and when citizens may participate, and adopt or amend rules of procedure accordingly.

The method by which citizens are allowed to speak at a council or board meeting varies from community to community, and the procedures may be established by ordinance, resolution, rule or tradition. Basically, however, there are five methods of placing citizen participation on the agenda. It is important that regardless of the method used to involve the public, citizens attending the meeting should have a clear idea of where in the agenda their comments will be heard before the meeting begins.

1. Citizens are recognized throughout the meeting. The council or board recognizes citizens and allows them to speak at any time throughout the meeting, as long as their comments are restricted to the agenda item currently under consideration.
2. Citizens invited to be heard. During this period, the council or board recognizes citizens and allows them to speak only on matters of business listed on the agenda. This method may be used exclusively or in addition to the public comment described below.
3. "Public comment welcomed." In this instance, the governing body recognizes citizens and allows them to speak only on matters of business listed on the agenda and labeled "public comment welcomed."
4. Public comment. During this period, the council or board recognizes citizens and allows them to speak on any matter other than those listed for the governing body's consideration. This method is used most often in combination with the previous two methods. When a council or board holds a public-comment period, it must consider certain issues: How quickly will council or board respond to a citizen's request? Will any discussion be allowed? For example, if a citizen brings a request for a drainage improvement on his or her property, will discussion of this concern occur?
5. Public hearings. Under the agenda category "public hearings," citizens are allowed to speak only on matters listed for hearing. The public hearings category is usually a necessary agenda item for all cities and towns on certain subjects and may be used in addition to any other method.

Public hearings vs. public comment

A public hearing is any meeting or portion of a meeting of the municipal governing body at which members of the public are given the opportunity to speak on specific matters on the agenda for hearing. As such, public hearings are distinguished from citizen participation or public comment.

Public hearings and other citizen participation sessions

Public hearings are held to allow citizens in the community and other interested persons to speak to the town board or city council. Some public hearings are called to hear comments on only certain specific subjects; others are open-ended and allow citizens to speak on any subject. Some councils set aside time for public comment during each council meeting; other public hearings are completely separate from council meetings. Some public hearings are required by law. The council does not make a decision until it has closed such hearings.

While public hearings should generally not be highly formalized, many councils have found it helpful to establish several procedural ground rules and to inform the public of these rules.

Preparing citizens for hearings

No public hearing can be successful unless the people attending the hearing understand the issues to be discussed. It is just as important for citizens to understand the issues as it is for council members. Little true headway can be made at a public hearing if there are already misconceptions about either the issues or the council's intentions for dealing with them, and such misconceptions can cause substantial harm.

When citizens understand the issues, they are more likely to make intelligent and worthwhile comments about the advantages or drawbacks of the plan under consideration. Even when citizens oppose the government's position on a particular issue, it is still better if they accurately understand the facts.

Procedures to promote orderly public comment

- Establish rules of procedure before the hearing and read them at the beginning of the hearing so that everyone understands how the hearing will be conducted.
- Announce that issues will be considered in the order listed on the agenda.
- Ask anyone who wishes to speak at the hearing to register.
- Set time limits on how long speakers can talk.
- Allow each person who wishes to speak a chance to do so before allowing a second round of comments.
- Ask each speaker to begin by stating his or her name and address, any group being represented, if any, and how many people he or she represents.¹
- Establish ahead of time whether board or council members or other participants at the hearing will be allowed to ask questions of a speaker after his or her presentation.
- State that disruptive behavior will not be tolerated.

A FINAL WORD ON DECORUM

Professional respect and courtesy are of the utmost importance to elected officials, and it is imperative that elected officials serve as a model representative of their community at all times. Not only will composure and professionalism enhance the quality and effectiveness of meetings, but it also will earn respect and attentiveness from colleagues, municipal staff, the media and the public. Here are just a few basic professional responsibilities of elected officials:

1. Be prepared for each meeting, read the agenda and other advance materials thoroughly, and to arrive at the meeting by the specified time.
2. Strive to contribute relevant information and opinions to the council's or board's proceedings within the framework of proper procedure, avoid "grandstanding" or repetitive speech.
3. Confine remarks and questions to matters before the governing body as specified by the agenda format or order of business.
4. Listen to and refrain from private conversation when citizens or other members of the council or board are speaking.
5. Accord courtesy to councilmembers or trustees, to municipal officials and employees, and to citizens appearing before the governing body.

¹ *When a large number of citizens attend a meeting to speak about an issue, there are a number of strategies to ensure that everyone's opinion is heard without unduly lengthening the meeting. First, the presiding officer can ask the citizens to sign in either "for" or "against" the particular issue at hand, and then request a representative from each group to speak on behalf of the others. The body also may simply ask members in the audience who are in agreement with the speaker to stand and acknowledge that fact in lieu of speaking.*

6. Refrain at all times from rude and derogatory remarks, reflections as to the integrity of others and statements as to the motives and personalities of others.
7. Work toward consensus whenever possible, recognizing and respecting the strengths, knowledge and opinions of fellow council and board members.

RESOURCES

The Good Meetings Guidebook, Colorado Municipal League, 2000.

Handbook for Municipal Elected Officials, Colorado Municipal League, 2006.

Municipal Clerks Handbook, Colorado Municipal League, 2003.

National Association of Parliamentarians, www.parliamentarians.org.

Roberts Rules of Order (Newly Revised, 10th Edition), Perseus Publishing, 2000.

Handbook compiled by CML Membership Services Manager Sara Reynolds, Colorado Municipal League, 2004

INTRODUCTION

THE DEMOCRATIC HERITAGE OF MUNICIPAL GOVERNMENT

Modern municipal mayors, councilmembers and trustees are the heirs to the traditions of democracy first embodied in the ancient Greek city-state. This tradition is reflected in our modern reference to large cities or urban areas as “metropolises,” derived from the ancient Greek, meaning “mother city.”

Today towns and cities are the functional equivalents of the Greek city-states. Modern municipalities are extremely complex organizations but, at the same time, their operation is closer to the Greek ideal of direct democracy than any other unit of governance.

Municipal officials, unlike their counterparts in federal and state offices, are in direct contact with the citizens they serve on a continuing basis. Citizens hold their local officials responsible for everything from the state of the local economy and the level of pollution in the air to whether the potholes in the streets need repairing or the neighbor’s dog should be restrained. This is municipal government in action: a living demonstration that people who live together in a community can and want to solve their own problems.

HISTORY OF COLORADO MUNICIPALITIES

The establishment of settlements in Colorado followed the ‘frontier’ pattern of fate, not planning. The earliest settlements were military forts, the first being Bent’s Fort, established in 1832 near present-day La Junta. Other forts included Fort Lupton, established in 1836, and Fort Pueblo in 1842.

The first permanent civilian settlements were established by Mexican Americans in southeastern Colorado. Among these was San Luis, established in April 1851, today the oldest continuously inhabited town in Colorado.

Other Colorado towns were established in waves. The first wave was fueled by the Pikes Peak Gold Rush of the late 1850s. The front-range communities of Denver, Boulder, La Porte (predecessor to Fort Collins), Fountain City (predecessor to Pueblo) and El Paso (predecessor to Colorado Springs) were established in 1859. Later, waves of settlements were fueled by the silver boom and the cattle industry during the 1870s. Silver towns included Leadville, Silverton, Idaho City (now Idaho Springs), and later Aspen, Rico, Telluride and Creede. Cattle towns, called colony towns, included Greeley, Longmont and Sterling.

Colorado towns and cities grew and multiplied over the decades. At present, Colorado is home to more than 270 separate municipalities that range in population from fewer than 20 residents to more than one-half million.¹

CLASSES OF COLORADO MUNICIPALITIES

With the exception of home-rule municipalities, the Colorado Constitution leaves the classification of municipalities to the state legislature:

The General Assembly shall provide, by general laws, for the organization and classification of cities and towns. The number of such classes shall not exceed four, and the powers of each class shall be defined by general laws, so that all municipal corporations of the same class shall possess the same powers and be subject to the same restrictions.²

¹ Colorado Municipal League, *2009 Colorado Municipal Directory*.

² Colorado Constitution Article XIV § 13.

Colorado municipalities are divided into four general classes: statutory towns, statutory cities, territorial charter cities and home-rule municipalities (both towns and cities). Statutory towns are defined as municipal corporations with a population of 2,000 or fewer, while statutory cities are those municipal corporations with a population greater than 2,000.³

The Colorado General Assembly has granted statutory municipalities broad powers:

municipalities shall have the powers, authority and privileges granted by [Title 31, C.R.S.] and by any other law of this state together with such implied and incidental powers, authority and privileges as may be reasonably necessary, proper, convenient or useful to the exercise thereof. All such powers, authority, and privileges are subject to the restrictions and limitations provided for in this title and in any other law of this state.⁴

Home-rule municipalities have a state constitutional status that make them somewhat different from their statutory “cousins.” Home-rule municipalities are those cities and towns that have, either upon incorporation or some time later, chosen to adopt a home-rule charter pursuant to Article XX, section 6 of the Colorado Constitution. Home-rule municipalities are empowered with “all ... the powers necessary, requisite or proper for the government and administration of its local and municipal matters.”⁵ In stark contrast to statutory towns and cities, home-rule municipalities’ ordinances regarding “local municipal matters” actually *supersede* state laws which may conflict.⁶

Finally, one city, Georgetown, has retained its old territorial charter. In contrast to home-rule charters, this charter may be amended only by the General Assembly.⁷

Some cities have diminished to fewer than 2,000 residents since their incorporation, and a few towns have increased in population to more than 2,000 since they incorporated under their present form. Under current Colorado law, reorganization of a town to a city or a city to a town based on a crossing of these population thresholds is purely optional.⁸ Home-rule municipalities may call themselves either a town or a city.

Forms of government

The forms of government for statutory and charter municipalities are prescribed by statute. Municipalities choosing to organize or reorganize as home-rule municipalities under Article XX of the Colorado Constitution may choose the form of government that most suits their needs.

CARRYING OUT THE GOVERNING BODY’S JOB

THE JOB OF THE MUNICIPAL LEGISLATOR

Getting elected

You have been elected to municipal office. What were your motivations to run in the first place? Will these factors determine what role you play as an elected official in your city or town? Let’s examine some of the common factors involved in running for local government office.⁹

“Certain issues are being ignored.”

You have personal feelings on a particular set of issues that you feel current officeholders are ignoring. You want to fix these issues once you are elected. Will you?

“I disagree with the ideological position of the incumbents.”

You have a philosophical disposition on issues or policies that is basically different from the incumbents. You want to change the direction of policy making as a result.

“I love politics; it’s my passion in life.”

You are hooked on politics in every manner and form. Involvement in elected office is in your blood.

“I now have the time. Commitment is not a problem for me.”

For example, you are retired. You have served on advisory boards in the past and it always interested you. Now, you have the time to make even a deeper time commitment.

“This community has done so much for me. I want to give back something in return.”

You have been successful in your professional life, and the community has been supportive of you. You now want to return that support in the form of elected public service.

3 §§ 31-1-101(2); 31-1-1101(13), *Colorado Revised Statutes*.

4 § 31-15-101(2), C.R.S.

5 Colorado Constitution Article XX § 6. For more information, see Colorado Municipal League, *Home Rule Handbook: An Introduction to the establishment and exercise of Municipal Home Rule* (1999).

6 *Id.*

7 See *generally* Georgetown v. Bank of Idaho Springs, 99 Colo. 519, 64 P.2d 132 (1936).

8 See § 31-2-216, C.R.S.

9 Taken from Susan A. MacManus, “Why Dick and Jane Run,” *Colorado Municipalities*, p.16-17 (July 2000).

"I got drafted for the position by the group in which I am involved."

Often times, candidates have been pressed into service by a local civic group or service organization in which they are involved. That is what happened in your case.

"I ran because no one else would."

Lack of competition for municipal elected office sometimes leads a person to declare their candidacy when no one else appeared willing. This is what happened to you.

"We need an elected body that is more representative of the diversity of the community."

The city council or town board as currently constituted is not representative of the community as a whole, and you feel your presence as an elected official can elevate the awareness of diversity.

While not reflective of all of the reasons why a person decides to run for municipal elected office, they do reflect a set of general impressions as to why people decide elected office is meant for them. However, what prompts a person to run, and then be elected, may become very different once sworn into office. What happens before an election and afterward once a person begins to serve on an elected governing body can seem like two different worlds.

Becoming oriented

The newly elected mayor or member of the governing body will have little difficulty finding those who will tell him or her what to do and what not to do. It's not hard to find out the composition of the governing body—number of members, length of terms, who can be elected, etc. It isn't long until he or she knows how an ordinance is passed, or what the debt limit is, or when approval by the voters at an election is required. But these are not the most perplexing questions. Often what is most important to find out is simply how to do a good job.

There are roles taken before being elected, but what is the role now? Beyond all else, the person elected to office at the municipal level takes on the role of a leader. This means establishing public policy that can have broad impacts within and outside of the municipality. This means a person who is responsible for and responsive to the needs and concerns of municipal residents. This means a person involved in a variety of tasks internal to the organization of the municipality itself.

Local elected officials become caretakers of their communities' public life. Local elected officials can help strengthen local governance and problem solving in ways to make the future brighter. Municipal leadership motivates people to work together for a common good – to transform goals and objectives into a positive reality.

Municipal leaders wear many hats

University of Michigan Professor Arthur W. Bromage, following his experiences as a member of the Ann Arbor City Council, concluded that a councilmember must wear several hats to meet the responsibilities of the position.

Lawmaker

The adoption of formal policies and local laws, generally known as ordinances, takes up a great deal of time for any municipal elected officeholder. These regulations will have the force of law and cover many policy areas such as land use, liquor licensing, tax policy and community redevelopment.

Financier

Although a municipal staff person may prepare the budget, the final decision rests with the elected official. The buck literally stops with the city council member or town trustee. Tax and spending decisions are critical roles that will be played by any elected official.

Employer

An elected official has duties and responsibilities that may oversee the municipality's workforce. Working conditions, employment agreements, salary and benefit schedules all play a part in this.

Constructive critic

An elected officer oversees the policies that govern the operations and administration of the municipality. This may mean bringing observations and input to municipal administrators to help the city or town run more effectively.

Intergovernmental relations

An elected official must decide, for example, whether to sell water services to fringe areas and also may be asked to represent the city or town viewpoint before state governing bodies and to make policy that determines the relation of the municipality to the federal government.

Public relations representative

An elected official serves as a representative of the community as a whole. Frequent contact with the media and speaking to groups come with the territory.

These examples illustrate only a few of the experiences on the job. The real task is to provide leadership and direction for the community, to decide what needs to be done, and to help prepare the municipality for future generations.

Public policy making

The job of the municipal governing body is frequently stated thus: the governing body sets public policy.

Sound policy decisions are the result of hard work. The policy-making job in a municipality is amazingly complex. It requires from each member of the governing body a belief in the municipality, an understanding of its people, and a concept of what government is, does, could do and should do.

Sound policy decisions result when elected officials possess determination, imagination, and devotion to the best interests of the public. A member of the governing body who cannot view public interest apart from personal interests is of little help in determining sound public policies. How opinions or feelings may have been expressed during an election campaign might have to be modified once elected.

Each official has his or her own philosophy about what the municipality ought to do or ought not to do. The decision to run for office was no doubt influenced by satisfaction or dissatisfaction with the way in which the municipality was being governed. Upon taking office, however, the official may soon be confronted with many problems that had not occurred to him or her.

Finding out what must be done

How does a municipal official find out about problems facing the municipality? How does he or she decide what activities or projects the municipality should or should not undertake?

The elected official already may know of problems or activities that need to be addressed; municipal employees also may have identified problems. Perhaps most important, the official must find out what the people want done. As their representative on the governing body the official wishes to respond to constituents' concerns about public policy.

The member of the governing body may frequently find that what needs to be done, what the people want done and what is possible to do may not coincide. What needs to be done may be impossible because the people don't want it done; what the people want done may be impossible for various reasons.

Pressures on municipal officials

Discovering what the people want may be difficult, and the people may not always agree. Without special effort, of course, the official will receive expressions of interest or protest, in the form of telephone calls, letters to the editor in the local newspaper, protest petitions and attendance at meetings of the governing body. However, these expressions may or may not reflect the desires or best interests of the community as a whole.

The elected official truly concerned with representing the best interests of the people will go beyond these expressions and seek out opinions and ideas on every occasion-informal conversations, discussions with friends and business associates, and speaking engagements. One might assume that the citizens don't care how a problem is resolved unless they express themselves; however, a few loud voices on a certain issue may be misleading.

Much of the municipal legislator's work will be to seek public opinion, balance pressures from different interests and determine what course public policy should take.

Keeping the public informed

Discovering what the people want done is not a one-way process. Government is a public matter, and the governing body has a responsibility to the residents of the community to let them know what has been done or will be done.

Statutes set minimum requirements for informing the public. Publication of items such as ordinances, franchises, annual financial statements and notices of budget hearings provide a way to let the people know about governmental activities. Exceeding these minimum requirements, however, can greatly increase interest and build confidence in the municipal government.

A well-informed public results in an improved flow of ideas and opinions, easier law enforcement, and increased understanding of the problems that face the municipal government.

Ways to inform the public are a matter of common sense and most of the techniques are obvious. Here is a partial listing:

- Expand personal contacts. Just as he or she asks for expressions of opinion from personal acquaintances and business associates, a member of the governing body also may use many day-to-day situations to explain what the municipal government is trying to do.
- Encourage attendance at meetings. Although citizens can find out easily when meetings of the governing body are held, members of the governing body should be sure that all meetings are given advance publicity to encourage attendance. They also can make sure that anyone attending a meeting has an opportunity to be heard.
- Establish good relations with the media. Members of the governing body may find that what they say makes news. Newspapers and radio and television stations can be of real assistance in letting the public know about governmental activities. Most reporters are anxious to do the best possible job in relating activities at the town or city hall. By helping

them in this job, by making it easy for them to get the news, by being frank and clear about municipal problems and activities, the governing body can serve the public by keeping the record straight.

By understanding what makes news, an elected official can improve his or her own media relations by anticipating in advance what the news angle will be in any situation, and thus be prepared when the reporter calls. It is not the responsibility of the reporter to keep the official from making erroneous or premature statements. If your municipality maintains a community access cable television channel, use this vehicle as another way to communicate with the public at large.

Conflicts of interest

Any member of the governing body of a city or town having a “personal or private interest in any matter proposed or pending before the governing body” must disclose the interest to the body and not vote on the matter. Further, the member must refrain from “attempting to influence the decisions of the other members.”¹⁰

In practice, this means that the member having the conflict should announce his or her interest before discussion is commenced on the matter and should not participate in discussions or any voting. One relatively simple way to achieve this is, after disclosing the interest, to leave the room until after all discussion and voting has taken place. The statute does allow the member having the interest to vote on the matter “if his participation is necessary to obtain a quorum or otherwise enable the body to act.” However, if this is done, the member must also make a written disclosure to the Secretary of State, in accordance with a statutory procedure.¹¹

The statutes do not specifically define what an “interest in a matter proposed or pending” is, but a general rule of thumb is that if the matter involves anything in which the member has or might have a financial interest, direct or indirect, including an interest in a business that could be placed in a superior competitive position by the action proposed to be taken, such actions constitute an interest that must be disclosed and may not be voted upon. Obviously, the municipal attorney should be consulted whenever there is any question about whether a member has an interest that requires disclosure and abstention from voting.

Local government officials are not permitted to hold an interest in any contract made by them in their official capacity or by any body, agency or board of which they are members or employees. Excepted from this rule are: (1) contracts awarded to the lowest responsible bidder based on competitive bidding procedures; (2) merchandise sold to the highest bidder at public auctions; (3) investments or deposits in financial institutions that are in the business of loaning or receiving moneys; (4) a contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract; and (5) a contract with respect to which any local government official has disclosed a personal interest and upon which the official either has not voted or voted notwithstanding the disclosed conflict in order to achieve a quorum or otherwise enable the body to act.¹² Any contract made in violation of this law can be voided at the insistence of any party to the contract except the officer with the conflicting interest.¹³

The “Code of Ethics” statute,¹⁴ which is applicable to local elected officials, contains many restrictions on use of public office for private gain. For example, the statute prohibits use of confidential information for personal financial gain and acceptance of gifts or benefits as rewards or inducements for official action.¹⁵ As well, there are criminal statutes that make it an offense to trade in or abuse public office.¹⁶

Finally, local officials should check whether their municipality has charter or ordinance provisions concerning conflicts of interest, and should consult with their municipal attorney before taking any action that may involve a conflict of interest.

Some final guideposts

Municipal government is a team operation. No one member can hope to master every phase of governmental activity. Some people, however, are afraid of appearing “green” and are subsequently pressured into approving something they do not fully understand. The newly elected mayor, trustee or councilmember should not fear appearing to be “green” to the old hands.

There are many sources of information about municipal government available to the newly elected member. The publications and the information services of the Colorado Municipal League, meetings, institutes and conferences for municipal officials, and journals of the various professional associations of municipal officers and employees all provide basic information about the many problems and activities of municipal government.

10 § 31-4-404(2); § 24-18-109(3)(a), C.R.S.

11 § 31-4-404(2); § 24-18-109(3)(b), C.R.S.

12 See §24-18-201, C.R.S.

13 § 24-18-203, C.R.S.

14 §§ 24-18-101, C.R.S. *et seq.*

15 See § 24-18-104(1), C.R.S.

16 §§ 18-8-301, C.R.S. *et seq.*

In addition, there are specialists and professional consultants who can help with technical problems. Remember, however, that these persons are advisers and that the policy decisions should be left to the elected officials. The elected official must learn to evaluate the advice of specialists.

Overall, the most important job of the governing body is to make policy. It is easy for a governing body to lose sight of its policy-making function by spending most of its time looking down storm sewers or watching demonstrations of new types of equipment.

In the final analysis, no state law, handbook or any other guide can adequately outline the elected official's role in the governmental process. There is no formal requirement that the member of a governing body do anything more than comply with a few written rules. If he or she chooses not to run for re-election, there is nothing to prevent him or her from serving out the term of office doing no more than attending meetings, casting an occasional vote, and avoiding conduct that might be cause for removal. The member of the governing body must decide what his or her role shall be.

Yet, the member of the governing body has a real responsibility to the citizens. Members of the governing body are the trustees and custodians of the privilege of local self-government in this country, and the individual member, regardless of the size of the municipality, is engaged in the vital process of making American democracy work.

ESTABLISHING ADMINISTRATIVE MACHINERY

The management process

Good public policy decisions do not go into effect automatically. No matter how much time and careful thought may go into formulating public policy, there is always a management job to be done, and someone or some group must assume the responsibility to plan, organize, coordinate and control the administrative machinery. In smaller communities, members of the governing body may become more involved in this administrative process than do officials in other forms of government.

For many years, theorists have attempted to fit policy making and policy implementation into two neatly divided compartments. The justification was that every decision made in government involved either a "what" judgment (policy determination) or a "how" judgment (administrative execution of the policy). Nevertheless, the decision to build, for example, a sewage disposal system for the municipality (the "what" decision) can hardly be made without also deciding which method of treatment will be most suitable for the municipality's purpose (the "how" decision). Thus, even the theorists now agree that the "what judgment" and the "how judgment" are both parts of a single decision, instead of two separate decisions.

Types of administrative organization

Administration of municipal affairs may be carried out by the mayor, appointed administrative officers or by the governing body. More common is a combination of the three, sometimes supplemented by the use of special boards and advisory committees.

The mayor as chief administrator

In some municipalities it may be the mayor who hires and fires employees, who orders supplies and who checks to see that the streets are cleaned, chuckholes repaired and park lawns watered. In these municipalities, department heads report directly to the mayor, not to the governing body, and the mayor may meet with the department heads at times other than at meetings of the governing body. In Colorado this is not a common form of municipal administration.

Appointed administrative officers

In some municipalities, execution of municipal business rests almost solely with appointed municipal officials. Where there is no coordinating administrative official, municipal administrative responsibility often is divided among independent department heads and other officials. Each department head supervises department employees and activities and reports to the governing body. Approval is necessary before undertaking new projects, and each department concentrates on activities directed by the governing body or of special interest to the department head.

This system of operation, where no one person is responsible for municipal administration, may engender uncoordinated and inefficient administration.

As a result, an increasing number of Colorado municipalities have provided by ordinance for the position of city or town manager, administrator or superintendent. This person serves as the chief administrative officer, coordinates municipal administration, supervises other employees and is directly responsible to the city council or board of trustees. This system permits administrative responsibility to be centralized in one full-time employee and may lead to better coordinated administration and more professional leadership in municipal government. Nationally, Colorado is viewed as a state that strongly supports this approach to municipal government.

Administration by committees

In municipalities where neither the mayor nor any appointed municipal official has the responsibility to direct municipal affairs, the governing body must supervise and coordinate municipal administration. This can be done as a collective

endeavor, but more often the governing body forms committees that recommend policy and supervise administration of programs within each committee's sphere of responsibility.

The mayor may appoint members of the governing body to various committees, or the members may choose to organize their own committees and make their own appointments. Each member may serve on one or more committees composed of several members of the governing body. The names and scope of the committees may vary with each municipality, but commonly include water and sewer, street and alley, police and fire, finance, park and recreation, and health and welfare.

In some municipalities the governing body relies almost entirely on its committee structure to supervise administration of municipal affairs. Under such an arrangement, the street superintendent, for example, would report to the street and alley committee. In practice, the committee chairperson may assume most of the responsibility and control and directly oversee administration within the committee's area of responsibility. Committees provide a way to divide up the work, study activities in greater detail and more closely supervise municipal administration. This system usually requires members of the governing body to devote a great deal of time to committee work, leaving less time and energy to solve overall municipal problems.

Both systems — administration by the governing body and administration by committees — go against modern public management practice, which holds that only one individual should have the responsibility to supervise and coordinate administrative operations. As a result, neither administration by the governing body nor by council committees may be a sound and effective system for supervising and coordinating municipal administration.

Boards and commissions

Boards, commissions and citizen committees can provide the governing body with a great deal of assistance both in recommending public policy and in transforming policy decisions into action. Some are required or permitted by statute, while others are created by ordinance, resolution or motion. Some are empowered to make administrative decisions, others can only make recommendations to the governing body, and still others are primarily fact-finding bodies. Some boards and commissions are permanently established, with members appointed for overlapping terms to add continuity to committee operations, while others are established for a limited time to accomplish a single purpose and cease to exist once their functions are completed.

In some situations, municipal governing bodies may find the use of special boards and commissions to be to their advantage. They may be helpful in analyzing technical problems considered beyond the scope of the governing body. Boards and commissions give the municipality an opportunity to use the talents of local specialists in certain fields and permit citizens with special interests to serve the community in an area of personal concern.

Here is a partial listing of special boards and commissions authorized or required by state law (numbers in parentheses refer to title, article and section number of the C.R.S. in which the board or commission is authorized): Board of Trustees, Police Pension Fund (31-30.5-203); Board of Trustees, Fire Pension Fund (31-30.5-202); Library Board of Trustees (24-90-108); Planning Commission (31-23-202); Zoning Commission (31-23-306); Board of Adjustment (31-23-307); Local Liquor Licensing Authority (12-46-103-104; 12-47-103-104).

Others boards or commissions may be set up by the governing body to follow a particular project through to completion. Frequently, citizen committees are appointed to study such things as possible new sources of revenue; the need for new building codes; the need for new municipal facilities such as swimming pools, fire stations or parks; or the desirability of launching new projects. In many cases, persons who serve on such advisory committees may be carried over onto permanent commissions or boards upon completion of their study projects.

There are advantages and disadvantages to the extensive use of special boards, commissions and citizen committees. They can provide a convenient way to obtain technical advice, and they also may provide two-way access to important areas of public opinion and a way to build and maintain public support.

On the other hand, they are not a substitute for responsible administration, and too many boards or commissions may hamper efficient administration by spreading authority and responsibility too widely. Sometimes the needed information or advice can be better obtained from within the municipality's administrative organization or from professional consultants, therefore making a study committee or advisory committee a cumbersome addition to municipal organization.

BUDGETING

More than a document

There is a tendency to think of budgeting only in terms of the frenzied attempts to prepare a complicated document in sufficient time to comply with deadlines established by state law. Then, once the budget is filed, it can be forgotten until the next deadline rolls around. Municipal budgeting, however, is a year-round activity that involves not only preparation of a budget document, but also putting the budget into effect. In preparing a budget, the municipal governing body, in effect, promises that the municipality will do a certain amount of work with a certain amount of money. It is an agreement with the taxpayers as to what they will get for their tax money during the coming year.

This taxpayer-governing body agreement is of little value, however, if no attempt is made to carry out the program as promised. This process is usually known as budget execution or budget control. Budget control, properly exercised, is perhaps the most valuable administrative device for seeing that legislatively authorized programs are put into effect. By frequently comparing the budgeted revenues and expenditures with actual figures, the governing body can check its program commitments to see which activities are exceeding budget plans and which are lagging behind.

The budget as a work program

The purpose of a budget is obvious-it attempts to keep expenditures within the municipality's estimated income. In simple language, the budget document is a work program converted to dollars and cents. The budget consists of two parts: first, a carefully prepared estimate of revenues and, second, a tabulation of the estimated amounts of money required to finance each activity listed.

In budgeting, the governing body makes important decisions about the work program of the municipality. Is a swimming pool more important than storm sewers? Does the municipality need a new library more than it needs extra policemen? Should the chuckholes be filled or the street completely rebuilt? It is a process by which the governing body determines the community's standard of living-what the community needs and wants, what it is willing and able to pay, and what services it can expect to receive for its tax dollars.

The capital budget

A capital budget is a long-term plan for capital improvements. It usually is prepared along with the annual operating budget. After an estimate of revenue available for public improvement is prepared, a list is made of needed capital improvements in order of priority for the planning period. And the capital budget is enacted. The planning period is generally for about five years, although there is frequently a sketchy overall plan prepared for a longer period.

While the capital budget covers several years, it should be revised as needed and reenacted annually. A capital improvement budget is particularly necessary where the municipality wants to take advantage of the state law authorizing the appropriation and accumulation, over a period of years, of a capital-improvements fund for expenditures on public works projects.¹⁷

Every municipality should have a capital budget. By planning for public improvements, the governing body may be able to minimize problems, avoid crash programs and, perhaps, avoid financial embarrassment. Capital budgeting forces the municipality to make the more important big purchases and capital improvements first and helps provide a stabilized tax rate.

17 See § 31-15-302(1)(f)(I), C.R.S.

RESOURCES

THE COLORADO MUNICIPAL LEAGUE

CML is a nonprofit, nonpartisan organization that has served and represented Colorado's cities and towns since 1923. The League offers membership to any incorporated city or town in Colorado, and currently serves more than 99 percent of Colorado's municipalities.

Major policies of CML are established by the membership at an annual business meeting and by the CML Executive Board, Policy Committee and standing committees. The Executive Board is comprised of 19 officials who are elected by the membership at the CML annual business meeting. They serve for two-year terms. Service on the Policy Committee and standing committees is open to any municipal official from a member city or town. Daily operations of the League are carried out by CML staff.

CML also has special-interest sections that cooperate with and help the municipal officials performing specific functions for their communities. Examples of sections include Mayors and Councilmembers, Managers, Attorneys and Clerks.

CML is organized into 14 districts, along the same geographic lines as the state's 14 planning regions. Each district elects officers and holds at least one meeting a year that includes a program of interest to officials in that district. The sections and districts give CML depth and breadth in its understanding of municipal needs.

Advocacy

CML is your voice before the state and federal government, employing a general counsel, staff attorneys and full-time lobbyists to ensure that all municipalities are well represented at the State Capitol.

The League monitors the Colorado Legislature for proposals that would affect municipalities and works to pass, defeat or amend legislation in accordance with general municipal interests and membership direction. The work of state agencies also is under the watchful eye of CML, as are statewide ballot issues.

Respected and honored with many awards, CML is recognized as the leading municipal voice before the General Assembly, Congress and the courts.

CML represents Colorado' municipal interests at the federal level, as well, and is an active member of the National League of Cities.

The League participates as *amicus curiae* (friend of the court) in state and federal appellate court cases that involve issues important to municipalities.

Information

CML provides the accessible information you need to serve your municipality and its residents.

Each year, staff responds to individual inquiries with information and advice about municipal government as well as sample documents from the League's extensive library.

CML periodicals (the bimonthly magazine, *Colorado Municipalities*; biweekly *CML Newsletter*; and *Statehouse Report* while the General Assembly is in session) and books capture important technical and legal research.

The League also distributes email (*Issues Update* and *CML News*) on emerging issues and posts regularly to our Web site, www.cml.org, as well as facilitates information through networking by email listservs that allow peers to share information and ideas electronically.

Training

CML offers dynamic events and workshops to support your continuing education and training. The sessions and meetings attract about 1,000 participants from throughout Colorado every year.

League workshops are affordable, capacity-building sessions that promote better understanding of municipal government and provide tools for effective leadership. Topics are timely and relevant. Examples include leadership, meeting facilitation, communication and parliamentary procedure.

Each June, the *CML Annual Conference* is the premier meeting for municipal officials in Colorado; municipal officials from throughout the state attend the three-day series of seminars. The *Seminar on Municipal Law* is held each fall, while each February brings officials from cities and towns across the state to meet in Denver for the *Legislative Workshop* and an audience with state lawmakers.

The League also hosts informative meetings across the state each spring and fall.

Contact the League for more information

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Northeastern Colorado Association of Local Governments

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District 3

Denver Regional Council of Governments

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District 4

Pikes Peak Area Council of Governments

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Colorado Springs 80905
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www.ppacg.org

District 5

East Central Council of Local Governments

128 Colorado Ave., Box 202
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www.prairiedevelopment.com

District 6

Southeast Colorado Enterprise Development Inc. and Southeast Council of Governments

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Lamar 81052
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www.seced.net

District 7

Pueblo Area Council of Governments

229 West 12th Street
Pueblo 81003-2810
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www.pacog.net

District 8

San Luis Valley Development Resources Group Inc.

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Alamosa 81101
(p) 719-589-6099
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District 9

Archuleta County Planning Commission

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District 10

Region 10 League for Economic Assistance & Planning Inc.

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District 11

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District 12

Northwest Colorado Council of Governments

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District 13

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P.O. Box 510
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District 14

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53 IDEAS:

HOW GOVERNING BODY MEMBERS CAN GOVERN BETTER

Reprinted from the League of Kansas Municipalities' brochure, "Suggestions for Successful Public Service."

Governing is clearly more of an art than a science. There are no ultimate answers on how to govern; different approaches are to be expected, and probably desired. However, there do seem to be some fundamentals. The suggestions that follow range from practical, common sense fundamentals to those more philosophic and theoretical. These tips for successful and effective public service are intended to assist mayors, council members, and board trustees. While most suggestions relate to individual officers, others apply to the governing body as a whole. These two applications, however, are interdependent—the capacity of a governing body to govern effectively is dependent on the collective capacities of at least a majority of its membership. These suggestions are not in any priority order, and not all are universally accepted. All of them, however, are worth consideration by anyone who would serve the public through an elective local office.

Further contributions and suggested revisions to this list are welcome; please send any such suggestions to CML.

1. Learn all you can about your city, its history, its operation, its financing. Do your homework. Know your city ordinances. Dust off your comprehensive plan.
2. Devote sufficient time to your office and to studying the present and future problems of your community.
3. Don't bum yourself out on the little things but recognize that they are often important to the public. Save some energy—and time—for the important matters.
4. Don't act as a committee of one; governing a city requires a team effort—practically and legally.
5. Don't let honest differences of opinion within the governing body degenerate into personality conflicts.
6. Remember that you represent all the people of your community, not just neighbors and friends. Be wary of personal experiences coloring your public decisions.
7. Take your budget preparation job seriously, for it determines what your city does or does not do for the coming year and will also influence what happens in future years.
8. Establish policy statements. Written policy statements let the public, and the city staff, know where they stand. They help the governing body govern, and writing them provides a process to develop consensus.
9. Make decisions on the basis of public policy, and be consistent. Treat similar situations similarly, and avoid favoritism.
10. Focus your attention on ways to prevent problems, rather than just trying to solve them as they occur. Filling potholes is one approach to governing; developing plans to prevent them is more important.
11. Don't be misled by the strong demands of special interest groups who want it done now, their way. Your job is to find the long-term public interest of the community as a whole, and you may be hearing from the wrong people.
12. Don't rush to judgment. Few final actions have to be taken at the first meeting at which they are considered. Avoid "crisis management."
13. Don't be afraid of change. Don't be content to just follow the routine of your predecessors. Charge your appointed officers and employees with being responsible for new ideas and better ways. Listen to what they have to say.
14. Don't give quick answers when you are not sure of the real answer. It may be embarrassing to appear ignorant, but it can be more embarrassing, and damaging, to tell a person something which is wrong.
15. As an individual, even if you are the mayor, don't make promises you can't deliver! Most decisions and actions require approval of the governing body, and this takes a majority vote.
16. Remember that you have legal authority as a governing body member only when the governing body is in legal session.
17. Don't spring surprises on your fellow governing body members or your city staff, especially at formal meetings. If a matter is worth bringing up for discussion, it's worth being on the agenda. Surprises may get you some publicity, at the embarrassment of others, but they tend to erode the "team" approach to governance.
18. Participate in official meetings with the dignity and decorum fitting those who hold a position of public trust. Personal dress and courteous behavior at meetings help create an environment for making sound public decisions.
19. Conduct your official public meetings with some formality, and follow rules of procedure. Have an agenda, and follow it. Most governing body members agree that formal meetings expedite the process and promote better decision making.
20. Don't be afraid to ask questions. It is one of the ways we learn. But do your homework by studying agenda material before meetings.
21. Vote yes or no on motions. Don't cop out by abstaining except when you have a conflict of interest. A pass does not relieve you of responsibility when some decision must be made.

22. Once a majority decision of the governing body has been made, respect that official position and defend it if needed, even if you personally disagreed.
23. Respect the letter and intent of the open meetings law, but also keep private and confidential matters to yourself. Don't gossip.
24. Retain competent, key employees, pay them well, trust their professional judgment, and recognize their authority and responsibilities.
25. Don't bypass the system! If you have a manager or other chief administrative officer, stick to policy making and avoid personal involvement in the day-to-day operations of the municipality. If you do not have an administrative officer, make sure you have some management system that officers, employees, and the public understand.
26. Don't let others bypass the system. Insist that people such as equipment or service suppliers work with your city staff. If direct contact with governing body members is necessary, it should be with the governing body as a whole, or a committee, and not on a one-on-one basis.
27. Don't pass the buck to the staff or employees when they are only following your policies or decisions.
28. Don't always take no for an answer. The right question may be "How can we do this?" instead of "May we do this?" Be positive!
29. Learn to evaluate recommendations and alternative courses of action. Request that your staff provide options. Encourage imaginative solutions.
30. Avoid taking short-term gains at the expense of long-term losses. Be concerned with the long-term future of the city.
31. In determining the public interest, balance personal rights and property interests, the possible harm to a few versus the good of the many. Recognize that in some situations, everyone can't be a winner.
32. Remember that cities are for people! Be concerned with the total development—physical, economic, and social—of your community.
33. Don't act as if the city operates in a vacuum. Cities must work within the intergovernmental system to be effective. Keep in contact and cooperate with your federal, state, county, and school officials. CML can assist with some of these contacts.
34. Know your neighbors. Get to know the officials of neighboring and similar size cities. Visit other cities, particularly those with a reputation of being well run.
35. Learn to listen—really listen—to your fellow governing body members and the public. Hear what they are trying to say, not just the words spoken.
36. Keep your constituents informed, and encourage citizen participation.
37. Be friendly and deal effectively with the news media. Make sure what you say is what you mean. Lack of good communication, with the media and the public, can be a major problem for municipal officials.
38. Remember that what you say, privately and publicly, will often be news. You live in a glass house. Avoid over-publicizing minor problems.
39. Expect, and respect, citizen complaints. Make sure that your governing body members, and your city, have a way to deal effectively with them. Have a follow-up system.
40. Be careful about rumors. Check them out. Help squelch them when you know they are false.
41. Appoint citizen advisory committees and task forces when you need them, but be prepared to follow their advice if you use them.
42. Take care in your appointments to boards and commissions. Make sure they are willing and capable as well as representative of the whole community.
43. Never allow a conflict of interest to arise between your public duties and your private interests. Be sensitive to actions you take that might even give the appearance of impropriety.
44. Seek help. Use manuals, guides, and other technical assistance and information available from the League and other agencies. Attend workshops and conferences put on for the benefit of you and your city.
45. Pace yourself. Limit the number of meetings you attend. Set some priorities, including the need to spend time with your family. Recognize that life—and the city—is dependent on a lot of things you have little control over.
46. Establish some personal goals and objectives. What do you want to help accomplish this year? Next year?
47. Help develop some short-term and long-term goals and objectives for your city, and check your progress at least every six months.
48. Similarly, help your city develop a vision of the future. Plan from the future to the present—no vision, no plan. One of the important purposes of a governing body is to establish a vision for the future.

49. Focus on the future, and try to leave your city better than that which you inherited as a city officer.
50. Be a leader, as well as part of the team of elected and appointed officials who were selected to make your city an even better place to live.
51. At least once a year, schedule a governing body discussion about how you are governing. Review the processes and procedures. Sit back and ask, "How are we doing? How can we do things better?"
52. Be enthusiastic about your public service and the privilege you have, and let the public know it. But maintain your sense of humor. 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.
53. Celebrate! Always focusing on problems and issues may lead you, the governing body, and the public, to believe that nothing positive ever happens. Good things do happen. Let the public share your successes.

SELECTIONS FROM ETHICS HANDBOOK

ISSUES AND CONSIDERATIONS REGARDING ETHICS

Overview

In addition to the legal requirements discussed in the accompanying Webinar, there are a number of other laws, principles and related issues that involve ethics for municipal officials.

First, the Colorado statutes, in addition to the code of ethics, the disclosure and abstention statute and the criminal code, provide a list of “ethical principles.” These principles, while written in the statute books, are not legally binding. They serve primarily as guidelines for conduct and best practices.

The second part in this section discusses nepotism, cronyism, and employment of spouses, and statutes relevant to these issues.

We conclude this section with a brief discussion on ethics and the expectations of your community and citizens. Like the “ethical principles” in the state statutes, these expectations are not legally binding. Yet these expectations are important when considering ethical conduct of municipal officials.

Non-binding ethical “principles” in the Colorado state statutes

The Colorado statutes (CRS 24-18-105) provide “ethical principles” that are not written to be legally binding, but are intended to provide supplemental guidance for ethical behavior.

- The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.
- A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.
- A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.
- A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

Nepotism and cronyism

Nepotism is commonly defined as “favoritism (as in appointment to a job) based on kinship.” Cronyism is “partiality to cronies especially as evidenced in the appointment of political hangers-on to office without regard to their qualifications.” Neither of these words are specifically mentioned in the state statutes, and neither cronyism or nepotism are specifically prohibited by Colorado law.

The Colorado statutes on unfair or discriminatory employment practices do, however, contain provisions concerning employment of spouses. 24-34-402 (1) (h). While generally providing that it is a forbidden employment practice to discharge an employee or refuse to hire a person based solely on the fact that the person is married or plans to marry another employee, the statute says these actions are not a violation when:

- One spouse directly or indirectly would exercise supervisory, appointment, or dismissal authority or disciplinary action over the other spouse;
- One spouse would audit, verify, receive, or be entrusted with moneys received or handled by the other spouse; or
- One spouse has access to the employer's confidential information, including payroll and personnel records.

Some local governments in Colorado have taken the initiative to pass their own anti-nepotism ordinances. However, even absent express prohibitions on cronyism or nepotism, elected officials should be aware that there may be times when disclosure and abstention from voting on matters that directly concern their relations, close friends or financial or political supporters may be desirable. Trustees and council members at times excuse themselves from votes regarding these matters to avoid the potential appearance of impropriety. If a situation like this arises, consult with your municipal attorney.

Expectations of your community

It is important to note that laws are limited in their ability to provide guidance for every situation you encounter. While an action may be legal, it may not necessarily be ethical or viewed by the public as ethical behavior. As many popular references suggest, laws should be regarded as a floor for ethical behavior, not a ceiling. The public probably isn't aware of all the laws that apply to your position as a public official; nonetheless they will have expectations of your behavior and will hold you to a high standard – regardless of the law.

What the public expects from public officials:

- Honesty
- Decisions that put the community first, rather than the interests of the individual public official
- An open, impartial and fair decision-making process
- Respect for individual rights and community rights
- Accountability
- Forthrightness
- Decorum and professionalism
- Personal character and lawful personal behavior

OTHER LEGAL CONSIDERATIONS

In addition to the laws, there are several related legal issues that often go hand in hand with an ethics discussion. In order to keep this discussion focused and concise, we did not address these issues. However, the League has publications or resources available on each of these topics, if you would like more information on them.

- Quasi judicial proceedings, and the associated restriction on *ex parte* communications
- Campaign finance laws
- Open meetings laws, including openness, notice and executive session requirements (please see CML's publication, *Open Meetings, Open Records*)
- Open records laws and personal correspondence (including email) (please see CML's publication, *Open Meetings, Open Records*)

STICKY SITUATIONS – QUESTIONS TO ASK

Unfortunately, not all of our questions involving ethics are black and white or addressed clearly in the laws. When you are faced with a difficult ethical question, it may be helpful to ask yourself the following questions:

1. What does the law require in this situation?

The law should be considered a minimum standard for ethical conduct. It can and should be a starting point for your decisions.

2. What does our own municipal ethics code require in this situation?

If your city or town has a locally-adopted ethics code, make sure you understand it and apply it to your decisions. Like state laws, local ethics codes always should be considered a floor for your decisions, not a ceiling.

3. Is this a right vs. wrong situation? Is the issue simply that doing the "right" thing involves significant personal cost?

Remember, your responsibility is to do the right thing for your community, regardless of personal cost. Ethics and the associated legal requirements are written to avoid improper conduct, not to serve as an excuse for avoiding politically difficult decisions.

4. Would I be embarrassed to read about my actions in the local newspaper?
This is a simple “self-test,” but can be very useful in clarifying a sticky situation!
5. Which decision will build or preserve the most public confidence in our municipality and the leadership of this council/board?
The public expects you to base your conduct on the highest standards – even the appearance or perception of unethical behavior can test the public’s confidence in your leadership.
6. Which decision is most consistent with my values?
Is it fair? Compassionate? Respectful of all parties involved? Am I keeping my word?
7. Does this decision represent the interests of everyone in my community? Are there other stakeholders or members of the public who should be heard before this decision is made?
Keeping your procedures open and accessible to the public not only ensures that everyone has an opportunity to be heard, but also that you make the best decisions for your community.
8. Does this decision involve conflicting values? If so, what are the facts? Is there a decision that best reflects my responsibility to the community as a whole? Does this decision do more good than harm? Is there something we can do to make this decision more fair and equitable?
Sometimes, no matter what you do, there will be someone in your community who disagrees with your decision. However, if you have carefully thought through all of these considerations, you can be assured that you have done everything possible to ensure a fair – and ethical – decision.

AMENDMENT 41 AND MUNICIPAL OFFICIALS AND EMPLOYEES: A PRACTICAL INTRODUCTION

INTRODUCTION

At the statewide general election held on Tuesday, Nov. 7, 2006, Colorado voters overwhelmingly approved Amendment 41, which adds a new Article XXIX, entitled “Ethics in Government,” to our state constitution. Article XXIX addresses a variety of topics, from limitations on receipt of gifts by various public officials and employees to strict limitations on giving by “professional lobbyists,” limitations on how soon former state legislators may become lobbyists, and creation of an independent “Ethics Commission,” at the state level. Certain of these provisions, especially those limiting receipt of gifts or “things of value,” as well as those provisions creating the state Ethics Commission, should be of immediate interest to municipal officials and employees in Colorado.

This memo responds to numerous requests from our membership for guidance concerning the provisions of Amendment 41. It should be understood that the observations contained in this memo are preliminary, as local government attorneys across Colorado continue to wrestle with numerous ambiguities and questions concerning the requirements of this complicated amendment. Consequently, while we hope this material provides a useful introduction and some guidance concerning Amendment 41, this material should not be viewed as a substitute for legal advice from your own municipal attorney.

The language of Amendment 41 (following) is somewhat dense and difficult to track. Thus, we have presented the requirements of the amendment in an “outline” format, in hopes that this may aid understanding. We have paraphrased the requirements, while retaining critical language. When appropriate, we have inserted our own comments and observations, denoted by a check mark.

The principal limitations of Amendment 41 that affect municipal officials and employees are found in sections 3(1) and 3(2) of the amendment. The reach of these prohibitions is determined by the definitions of “government employee” and “local government official,” which are found in section 2 of Amendment 41. This outline begins with discussion of these prohibitory provisions, followed by an introduction to the provisions creating the state Ethics Commission and defining its role. Finally, we address the home rule provision in §7 of the amendment, which presents home rule municipalities with a significant alternative to the requirements of Amendment 41.

PROHIBITORY PROVISIONS AFFECTING MUNICIPAL OFFICIALS AND EMPLOYEES

Who’s covered?

The Amendment 41 restrictions apply to various classes of persons. Among those covered are the following, which include municipal officials and employees.

“*Government employee*,” defined (section 2(1)), in pertinent part, as “any employee, including independent contractors, of ... any local government.”

“*Local government official*,” Defined (section 2(3)), in pertinent part, as “an elected or appointed official of a local government.”

“Local government,” as used in the foregoing definitions, is defined in section 2(2) to include only counties and municipalities. Thus, when Amendment 41 limits receipt of gifts, etc., by “government employees” or “local government officials,” those limits do not apply to officials and employees of Title 32 special districts or school districts, among others.

What prohibitions does Amendment 41 impose on receipt of money or gifts?

Sections 3(1) and (2) are the principal sections of the amendment potentially affecting municipal officials and employees. Note that these provisions limit what may be received. The donee, not the donor, is the object of these sections.¹

§3(1) A government employee/local government official shall not “accept” or “receive” any:
money
“forbearance” or
forgiveness of indebtedness
without receiving “lawful consideration of equal or greater value” in return.

§3(2) A government employee/local government official shall not, directly or indirectly (via gift to spouse or dependant child) solicit, accept, or receive:
any “gift or thing of value,” having a fair market value or “aggregate actual cost” greater than \$50.00 “in any calendar year,”
without receiving “lawful consideration of equal or greater value” in return.

Notably, these limits apparently apply regardless of whether the gift or fiscal benefit is provided in relation to or for the purpose of influencing official action. The Independent Ethics Commission has, however, found receipt of various gifts not violative of Amendment 41 when there is no violation of the public trust, such as when the animus for the gift has nothing to do with the recipients public position.

The \$50 limit in section 3(2) is on the “fair market value” or “aggregate actual cost” of gifts received by the covered official or employee, from “a person,” in “any calendar year.” So it’s a limit of \$50 per year, per donor, per covered official or employee.

The limitation is on gifts, etc. received, per year, from “any person.” “Person” is defined as “any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity.” (Section 2(4))

One question: Is “person” the interested entity, on whose behalf a number of natural persons may provide gifts/meals, etc.? In other words, may an unlimited number of persons who work at West, Inc., buy lunch for legislator X (and bring along the company’s lobbyist...), so as long as no one West, Inc., employee spends over \$50? Or is West, Inc., as an entity, limited to \$50 per year, no matter who it sends to lunch with the company credit card?

This section of the amendment declares that a “gift or thing of value” includes, but is “not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts.” Amendment 41 contains no formal definition of the terms “gift or thing of value,” (which terms also appear in subsection 3(4), limiting what may be given by professional lobbyists). This list in subsection 3(2) is thus as close as we get to a definition of these terms in Amendment 41.

Receptions, etc. The actual costs of food, drink, etc., for a reception or similar event, to which covered officials and/or employees are invited, may fairly be divided equally among everyone that attends. As a consequence, the distributed “gift” or “value” received by each individual official or employee attending could be quite minimal (e.g., if 200 people attend a \$2000.00 reception, covered officials/employees receive a \$10 “gift” or “thing of value” from the event sponsor). See also exception (e), below.

Scholarships, etc. A common question is whether sections 3(1) or 3(2) preclude award of scholarships to covered officials and employees, or their children. The Independent Ethics Commission has determined scholarships awarded utilizing objective criteria unrelated to the applicant’s status are not prohibited under Amendment 41.

What are the exceptions to these prohibitions?

The exceptions set forth in section 6 of the amendment provide that the limitations contained in subsection 3(1) and 3(2), described above, do not apply, if the gift or thing of value received by a municipal official or employee is:

a. **Campaign contributions “as defined by law.”**

“*Contribution*” is defined very broadly in the Colorado Constitution, Article XXVIII, Sec. 2(5).

b. **An “unsolicited item of trivial value,” less than \$50, such as a “pen, calendar, plant, book, note pad or other similar item.”**

¹ Which is not to say, however, that donors have nothing to be concerned about under Amendment 41. See the discussion below of the Amendment’s penalty section, where those “inducing” a violation are subject to punishment.

Some have suggested that this exception may be read as including finger food and beverages provided at receptions or similar events attended by covered officials or employees. Complicating this interpretation is that none of the listed items in this exception is food or drink, while these items are expressly mentioned in exception “e” below.

- c. **An “unsolicited token or award” in form of plaque, trophy, etc.**
- d. **Unsolicited publications, subscriptions, or “informational material” related to “recipient’s performance of official duties.”**
- e. **Admission and the “cost of food or beverages” at a reception, meal, or “meeting” before whom the recipient appears to speak or answer questions, as part of a “scheduled program.”**
Note that it’s the “program” that has to be scheduled, not the attendees. If attendees are amendable to answering questions, neither the cost of admission, nor the cost of food/drink that they consume counts against their \$50 annual limit on gifts, etc., from the sponsoring entity or group. Note also that, strictly speaking, questions need not relate to public business, in order to qualify the respondent to not count admission cost or the value of food/drink consumed against his or her annual \$50 limit.
- f. **“Reasonable expenses” paid by a non-profit organization or local government for “attendance” by covered officials or employees at a: convention, fact-finding mission, trip, or “other meeting”**
if the person is “scheduled” to:
deliver a speech, make a presentation, participate on a panel, or “represent” the state or local government, provided the non-profit organization receives “less than 5% of its funding from for-profit organizations or entities.”
Note that for this exception to apply, the actual “person” has to be scheduled, not just the “program,” as is the case with exception (e), above.
- g. **Gift, etc., that is given by “an individual” who is a relative or “personal friend” of recipient, “on a special occasion.”**
- h. **Compensation/incentive given to an employee.**

THE INDEPENDENT ETHICS COMMISSION

Section 5 of Amendment 41 concerns creation of an Independent Ethics Commission. The amendment does not specify what it is that the Commission is to be “independent” of, nor whether or where the Commission will be located in the state bureaucracy. The amendment provides, however, that the General Assembly “shall appropriate reasonable and necessary funds to cover staff and administrative expenses” of the Commission.

- The Commission is comprised of 5 non-paid members, one of whom will be a local government official or employee.
- The purpose of the Commission is to: (a) hear complaints, (b) issue “findings,” (c) “assess penalties,” and (d) issue advisory opinions.
- The Commission is authorized to do these things in connection with: (a) ethics issues arising under the provisions of Amendment 41, and (b) ethics issues arising under “any other standards of conduct and reporting requirements as provided by law.” The latter language could fairly be read as giving the Commission jurisdiction to hear complaints, assess penalties, etc., in connection with alleged violations of existing “ethics” statutes, such as the Public Official’s Code of Ethics, 24-18-101-205, C.R.S., the gifts & honoraria reporting statute, at 24-6-203, C.R.S., and the voting disclosure and abstention statute, at 31-4-404, C.R.S., among others.
- The Commission is given the authority to adopt rules for the purpose of “administering and enforcing”: (a) the provisions of Amendment 41, as well as (b) “any other standards of conduct and reporting requirements as provided by law.” The Commission’s authority apparently includes rulemaking for the enforcement of various state “ethics” statutes, of the sort mentioned in the foregoing paragraph.

Complaints to the Commission

Subsection 5(3) describes the Commission’s complaint process:

- “Any person” may file a complaint.
No entity is designated as responsible for policing or enforcing compliance with Amendment 41.
- The complaint must be in writing.
- The complaint must ask the Commission to determine whether a covered official or employee failed to comply with: the requirements of Amendment 41, or “any other standards of conduct or reporting requirements as provided by law” within “the preceding twelve months.”
- The Commission may dismiss “frivolous” complaints without a public hearing.
“Frivolous” is not defined in Amendment 41. Implementing legislation or commission rules will likely address this issue.

- As to non-frivolous complaints, Amendment 41 requires the Commission to: “conduct an investigation,” hold a public hearing, and “render findings,” pursuant to written Commission rules.
- The Commission is authorized to assess penalties for “violations,” as prescribed in Amendment 41, and as “provided by law.” (Penalties for violation of Amendment 41 are set forth in section 6 of the amendment, discussed below.)
- Members of the Commission are authorized to subpoena documents or witnesses.

THE PENALTY SECTION OF AMENDMENT 41

Section 6 of the amendment provides that: any covered official or employee “who breaches the public trust for private gain,” and “any person or entity inducing such breach,” shall be liable to the state or local jurisdiction for “double the financial equivalent of any benefits obtained by such actions.”

Amendment 41 provides that the “manner of recovery” of these penalties may be provided by law, as may “additional penalties.”

Interestingly, section 6 makes no express reference to the requirements of Amendment 41 itself, nor to the requirements of any of the various state ethics statutes. The penalty for breach of the “public trust” apparently complements section 1(1)(d) of the amendment’s “Purposes and Findings” section, in which it is declared that “any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that [public] trust.” This language may provide helpful direction to courts and the General Assembly, in construing or clarifying Amendment 41 to avoid some of the unintended consequences that the language of the amendment might be otherwise be read as supporting.

The language of the penalty section making the person or entity that induces a breach of the public trust liable to the state or local government stands out in an amendment that, except for its provisions concerning professional lobbyists, focuses on covered officials or employees as recipients_of gifts, etc. The jurisdiction of the Commission would apparently extend to assessing penalties on those who have led covered officials or employees astray.

LOCAL AUTHORITY AND THE HOME RULE PROVISION

Section 7 of Amendment 41 provides first that “any” county or municipality may adopt ordinances or charter provisions with respect to ethics matters that are “more stringent” than the requirements of Amendment 41.

Home rule municipalities and counties are then given substantial additional authority. Section 7 provides that the requirements of Article XXIX (Amendment 41) “shall not apply” to home rule counties or municipalities “that have adopted charters, ordinances, or resolutions that address the matters covered by [Article XXIX].”

This language has raised a number of questions among municipal attorneys representing home rule jurisdictions. First among these has been whether the “have adopted” language means that a home rule municipality must have had its local enactment on the books prior to Amendment 41 taking effect. CML endorses the interpretation that this language allows ordinances, charter provisions or resolutions, adopted after the effective date of Amendment 41 to remove officials and employees of that municipality from the Amendment 41 restrictions.

A second major issue has been what the “matters covered by” language requires to be included in the local ordinance, charter provisions or resolutions. It’s safe to assume the local provision should address gift limits of some sort, but what else, if anything, should be required? A complaint process? Penalty provisions? A cutoff for violations? Attorneys for home rule jurisdictions have been and will continue to analyze and discuss these and other interpretive issues arising out of Amendment 41. CML has available several recent municipal ethics enactments for your information.

