

Municipal Research News

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Municipal Research and Services Center of Washington

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The Care and Feeding of a City or Town Attorney

By Paul Sullivan and Pam James, Legal Consultants, Municipal Research and Services Center

Do you put them in a box with holes poked in it? Do you only let them out when you need an attack dog? There are so many questions! Some others might be: Who appoints the attorney? What's the role of the council in the selection process? Is an attorney even required? Who does the attorney represent? Must the mayor, manager, or council follow the attorney's advice? This article provides some basic information about the position of city or town attorney, addresses some of these questions, and offers suggestions to better understand the attorney's services and how to use them.

The Basics

State law either requires or allows a city or town to have an attorney or otherwise make provision for obtaining legal services.¹ In cities and towns that have established the office of city or town attorney by ordinance, the mayor (or manager)² fills the position,³ subject, except in towns, to possible confirmation of the appointment by the city council,⁴ and the attorney serves at the mayor's pleasure.⁵ The city council sets the salary and other compensation for this office.⁶ If the attorney filling this position is not "in house," the mayor appoints a person or firm into the position, subject to possible council confirmation, and the council approves the contract with the person or firm appointed. If the attorney is an officer, even if the position is filled by contract, the mayor has the authority to terminate the person or firm occupying the office. If

the attorney function is provided for by a professional services contract and not by an officer, the council selects the person or firm with whom to contract, approves the agreement or contract, and possesses the authority to terminate the relationship.⁷

What Does the City or Town Attorney Do?

Although there is some direction provided for by state law, in most cities and towns, the attorney does what the council and mayor require him or her to do. The second class city statutes provide that the attorney shall advise city "authorities and officers" on all legal matters relating to the business of the city, approve all ordinances as to form, represent the city in all actions brought by or against the city or its officials, and such other duties as may be set by ordinance.⁸ There is little statutory direction given for towns; the attorney is to merely "advise the town authorities and officers in all legal matters pertaining to the business of the town."⁹ No direction is given for code cities, other than the city council may prescribe the "authority, duties and qualifications" of all appointive officers, which would include the city attorney, if that position is created as an office.¹⁰

In reality, of course, the city attorney does as directed by ordinance or assignment, limited by available personnel, time, or budget. If an attorney is a city or town officer, he or she may be expected to provide written and oral advice as needed; attend council

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and staff meetings; handle litigation and proceedings before administrative bodies; attend (and provide advice at) council, board, and commission meetings, as needs and availability dictate; prepare or review ordinances, resolutions, contracts, and agreements; prosecute criminal cases; assist or handle claims against the city or town; and such other duties as may be prescribed. In jurisdictions that contract for services, the attorney or office may perform some or all of the above tasks, while in others, because of budgetary constraints or custom, the attorney's role may be limited to handling litigation, where an attorney's presence may be required.

Some Rules and General Understandings¹¹

1. *Who is the attorney's client?*

Simply put, the attorney's client is the city or town as an entity. He or she is neither the mayor's attorney, nor the council's attorney, although the attorney may represent the mayor or the council or individual members, in their official capacity, not as individuals, on behalf of the city or town as a whole. The attorney may advise or represent an employee or volunteer as well, when the person requires assistance because of acts taken or planned within the scope of his or her employment or volunteerism. From time to time the interests of the mayor or manager may differ from that of the council (or vice versa). The attorney's responsibility is to provide legal assistance to both. Once a policy decision is made by the council, however, the attorney should act according to the decision, assuming the policy is consistent with the law and the attorney's ethical obligations. Similarly, if an issue is administrative in nature, the attorney would act according to the mayor's or manager's direction, once a decision is made.

2. *Since the attorney represents the municipality as a whole, the assistance or advice he or she gives may not always be what an official wants to hear.* While the attorney can please some officials some of the time, he or she may

not be able to please all of the officials all of the time. If the mayor wishes to terminate an employee who is popular with the council, the attorney may assist the mayor in taking the steps necessary to do so. If the council adopts a policy inconsistent with the mayor's or manager's recommendation, the attorney defends the council's policy, as, after council action, it has

“If the process is going to work, there must be COMMUNICATION, early and often.”

become the city or town's policy. Once again, it is the attorney's responsibility to support the decisions of the city or town as a whole, not necessarily each individual official's position on a particular issue.

3. *If the process is going to work, there must be COMMUNICATION, early and often.* Once a problem or potential problem is suspected, talk to the attorney or otherwise seek legal assistance.¹² Attorneys are human; they may not know all the answers to all possible questions immediately. To get the best, most reasoned response, ask your legal questions at the beginning of the process, rather than later when time is short and positions are more likely set. It usually is far easier to take action after good legal advice is given, than it is to later defend an action that may not be consistent with good law or practice.

4. *Share.* Since the attorney's client is the city or town as an entity, recognize that the legal advice he or she gives should be timely shared with other interested officials. “Gotcha” may be good for playing tag; it is not so good for the efficient and effective performance of important governmental functions.

5. *Attorneys don't know everything, all the time, immediately.* Municipal law is complex. It requires knowledge of many subjects. Attorneys can't know the answer to every question immediately. Recognizing that, it is best to ask questions early so that the attorney can do necessary research and review important facts before giving an answer. Of course, not every situation allows time for research; in those instances, the attorney may only be able to give a tentative answer or indicate that he or she “will get back to you.” Such a response can often be the best response, because hurried, incorrect advice, if followed, may have costly consequences.

6. *Sometimes “I dunno” is the only answer that can be given.* It would be nice if there was an answer to everything. What is nice, though, is not always a reality. Sometimes a statute may not address a particular subject, a statute that does is ambiguous, regulations have not been issued, or there are no court decisions on point. Sometimes the best an attorney can do is to make an educated guess. That may not be the desired response, but that is reality.

7. *If you are going to ask the attorney for advice, be prepared.* Your time is important, as is the attorney's. (Furthermore, if the attorney is on contract, he or she may be billing for the time taken.) For economy and efficiency purposes, know what information you need from the attorney and, if facts are important, what those facts are. Since many legal answers depend upon the facts of a situation, be sure that the facts you provide are complete and accurate. Failure to provide the necessary facts or a complete question can result in incorrect legal advice, which is of no use to anyone.

8. *Must you follow the attorney's advice?* No. Nothing says that you have to follow the attorney's advice. However, there is the potential for liability, maybe even personal liability, if you do not follow the attorney's advice and

a legal action is filed. For example, if the attorney advises that the council cannot hold an executive session for a particular purpose and the council does anyway, there is the potential for personal liability if a challenge is made and is successful.

9. *Communicate your expectations, and make sure that your expectations are what you can expect.* If an immediate response is needed, explain that to the attorney and see if your timetable can be met, given the other projects or issues the attorney may be working on. (And try to be realistic in your expectations.) Also, please recognize that your request should be consistent with your city or town's policies. An individual councilmember may not be able to make a particular request, unless a majority of the council approves and there are sufficient funds available to pay the cost. You may want—expect—the attorney to attend all council meetings, but budgetary constraints and attorney availability may not

permit the attorney's presence at all meetings.

10. *Can't Municipal Research just be our attorney?* Inviting as that possibility might be, the answer is "No." Municipal Research is available to provide technical services, including legal advice, to city and county officials, but its advice does not supplant that available from the local attorney. The city or town attorney is the first—and last—line of defense. If there is an issue that is dividing the public, or causing problems within the government, it is the city or town attorney who best knows the facts, the personalities, and how a problem can be answered. And if a problem results in litigation, a contested hearing, or some other challenge, it is the city or town attorney who provides representation; Municipal Research cannot. And, from a strictly legal standpoint, Municipal Research's contract with the state does not provide for, or allow, direct representation. Municipal Research can help, and we

want to help! But local issues still must be addressed locally.

11. *Okay, but if I call Municipal Research, will our conversation be shared with others?* Municipal Research will try to keep confidences, if that is requested. Remember, though, Municipal Research serves all city, town, and county officials, including others who may have a different approach to an issue than you might have. If our consultants tell one person an answer, they are prepared to provide the same answer to others, if the same question is asked and the facts are not changed. While some might think it, Municipal Research does not favor one person or office over another; that's not our mission.

With fresh air and good care, your attorney will flourish and Municipal Research will continue to provide assistance to local officials, working together for excellence in local government. ■

¹RCW 35A.23.081 for second class cities ("shall"); RCW 35.27.070 for towns ("may"); and RCW 35A.12.020 and RCW 35A.13.090 for code cities (provision shall be made for obtaining legal counsel either by appointment or reasonable contractual arrangement).

²This article uses the term "mayor" as being the appointing officer; if the city or town is organized under the council-manager form of government, it is the manager who appoints the attorney, if the attorney's position is an office. While this article does not specifically review the position of city attorney in a first class city, it should be recognized that many of the considerations applicable to other classifications also apply to first class city attorneys.

³RCW 35.23.021; RCW 35.27.070; RCW 35A.12.090 and RCW 35A.13.080.

⁴RCW 35A.23.021 for second class cities and RCW 35A.12.090 and RCW 35A.13.080 for code cities; town councils do not have the power of confirmation. RCW 35.27.070.

⁵RCW 35.23.021, RCW 35.27.070, RCW 35A.12.090, and RCW 35A.13.080(2).

⁶RCW 35.23.091, RCW 35.27.130, RCW 35A.12.020, and RCW 35A.13.090.

⁷RCW 35.23.440(32), RCW 35.27.160, and RCW 35.11.010.

⁸RCW 35.23.111.

⁹RCW 35.27.250.

¹⁰RCW 35A.12.020.

¹¹This section is inspired by and borrows from the article "10 Tips for Creating a More Effective City Council-City Attorney Relationship," authored by Michele Beal Bagneris and printed in the July 2006 issue of *Western City*, a publication of the League of California Cities.

¹²City, town, and county officials can turn to the Municipal Research and Services Center for assistance. In addition to the Center's inquiry service, it provides publications and training on a variety of legal issues.

Ask MRSC

Summaries of recent inquiries answered by MRSC consultants

Contract Payments – Is there a statutory provision that imposes a charge if a local government is late making a payment on a contract?

Yes. RCW 39.76.010 provides that every state agency and unit of local government must pay interest at a rate of one percent a month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel whenever the state agency or local government fails to make timely payment. The statute then defines what constitutes timely payment.

There are some exceptions outlined in RCW 39.76.020, such as for intergovernmental contracts.

Growth Management Act – Does the Growth Management Act (GMA) require that cities have an average density of four houses per acre?

The GMA does not have a specific requirement for a minimum or an average density of four houses per acre in urban areas. It does have goals that direct local jurisdictions to reduce low density sprawl, and it has requirements for the establishment of urban growth areas where urban densities are encouraged. Although a series of Growth Management Hearings Board cases established a “bright line” rule of four units per acre as a minimum appropriate urban density, the state supreme court subsequently ruled that the boards do not have the authority to make public policy and establish such a “bright line” rule. *Viking Properties v. Holm*, 155 Wn.2d 112 (2005).

Impact Fees – May the rate for impact fees authorized by the GMA be equal to the full cost of new facilities needed to serve new growth and development?

No. Impact fees cannot be used to cover the full cost of new facilities. The

statute authorizing impact fees under GMA is RCW 82.02.050, which provides as follows:

Counties, cities and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing for system improvements to serve new developments must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

So it is clear that a city or county cannot rely solely on the use of impact fees to finance public facilities for new development. There must be a balance between impact fees and other sources of public funds.

RCW 82.02.060 provides that local governments are to adopt a schedule of impact fees for each type of development activity, specifying the amount of the impact fee to be imposed. The schedule is to be based on a formula or other method of calculating impact fees. In determining proportionate share, the formula for calculating impact fees must incorporate a list of factors that are set out in the statute, such as cost of the facility, availability of other public funds, and a list of other factors. The city must be able to demonstrate that the result is based on justifiable criteria.

For more information on this topic, see MRSC’s Web page on impact fees at <http://www.mrsc.org/subjects/planning/impactpg.aspx>.

Another resource is the *AWC Tax and User Fee Survey for Land Use Fees*. This survey includes GMA impact fees from cities for school facilities, parks, fire protection, and transportation.

Polygraph – Must a person who is being offered a temporary position as police chief take a polygraph examination?

Yes. RCW 43.101.095 requires that any person who has been given a conditional offer of employment as a fully commissioned police officer must successfully pass a psychological examination and a polygraph. Standards for the tests are set out in the statute. This requirement applies even to temporary appointments.

Property Tax Levy Rate – Is the property tax levy rate established by a city council subject to the initiative process?

No. The power to set a property tax levy rate has been specifically given to the city council for all classes of cities and so is beyond the scope of the initiative power in those code and first class cities that have adopted the powers of initiative and referendum.

RCW 35A.33.135 and RCW 35.33.135 each provide that “the legislative body shall determine and fix by ordinance the amount to be raised by ad valorem [property] taxes.” Also, RCW 35A.11.020 provides that the “legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state.”

These provisions provide the basis for the conclusion that such taxes are not subject to the initiative process. Also, note that RCW 35A.11.090 makes clear that code city ordinances authorizing the levy of taxes cannot be affected by the referendum process either.

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Public Officer Ethics

Some Do's and Dont's

By Steve DiJulio, Attorney and Hugh Spitzer, Attorney, Foster Pepper, PLLC

Elected officials and other key public officers all know that they must be careful to observe state ethics laws as they go about their public business. But occasionally, honest and well-meaning officials get themselves in trouble by doing something that seems perfectly reasonable on the surface but which turns out to conflict with Chapter 42.23 RCW, the Code of Ethics for Municipal Officers.

Two examples in the public finance realm demonstrate this point.

Employment by Financial Institution

RCW 42.23.030 states that “no municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer, in whole or in part ...”

The term “*officer*” is broadly defined to include all elected and appointed officers of municipalities, “together with all deputies and assistants.”

One problem that sometimes occurs is when a bank officer serves on a city council or board of county commissioners. We are often asked whether a separate department of a bank (i.e., the bank’s public finance department) may lend money to a city or county (or special purpose district) if a bank officer is on the board of the issuing entity.

Many local officials are under the misimpression that if they simply don’t participate in the selection of the bank and “recuse” themselves from any decision on the matter, there is no ethics violation. Unfortunately, that is not the case.

In the absence of an exception, the action of the council or board would be void. Chapter 42.23 RCW has some exceptions to the “beneficial interest” rule, but they are very narrow. There are also “remote interests” that may permit a board or council member to recuse, but allow the government to

proceed with the action. A municipal officer is treated as not being interested in a contract if that officer has only a “remote interest” such as:

- interest of a non-salaried officer of a non-profit corporation,
- an ownership of less than one percent (1%) of the shares of a corporation that is contracting with the governmental entity; or
- the status of being an employee of a contracting party where the compensation of the employee consists entirely of fixed wages or salary.

The remote interest exception often does not work when a city council member or commissioner is a bank officer. Bank officers often receive a bonus (or similar compensation) as part of their income. Even if the bonus has nothing to do with the performance of the bank’s public finance group, the fact that a banker on the city council receives any bonus whatsoever means that the remote interest exception will not apply.

Consequently, local governments should not borrow money from, sell their bonds to, or enter into any other financial transactions (other than depositing municipal funds) with a bank if a council or board member is a bank officer or employee who receives anything other than fixed wages and salaries.

The consequence of violating this prohibition is that the contract between the municipality and the bank is void, which means it is as though it never existed.

On a few occasions, bankers serving on city or county councils or district boards have resigned their positions until the bond or borrowing transactions had occurred, and then are reappointed to the position. However, this is quite a bother (not to speak of the loss of seniority!).

Purchasing Government Bonds

Another issue is where board or council members desire to purchase bonds issued by their local government. This may appear to make sense, since the purchase of bonds from your city or county is a real vote of confidence in that municipality. However, a municipal bond or note is a contract between the governmental issuer and the investor. Therefore, if a city council member purchases the city’s bonds, a contract springs into existence between the council member and the city. But, because municipal officers are not permitted to be “beneficially interested” in any contract made under their supervision, the bond with the council or board member will automatically be void, the member will not be permitted to receive any interest, and the transaction will have to be unwound. We often suggest that local government officials invest in bonds issued by the city or district next door, thus avoiding any possible problem.

Conflicts of Interest Do Not Include Personal Preferences

As noted above, Washington statutes (and common law) maintain strict standards governing public official conduct. However, there is nothing in the statutes that preclude an elected official from advocacy or expressions of views. One Court of Appeals decision summarized this issue as follows:

In a representative democracy, we elect our legislators precisely to carry out agendas and promote causes with full knowledge that “their own personal predilections and preconceptions” will affect their decisions. *Evergreen Sch. Dist. 114 v. Clark County Comm. on Sch. Dist. Org.*, 27 Wn. App. 826, 833 (1980). As long as these predilections do not lead them to **line their pockets or otherwise abuse their offices**, we leave the wisdom of their choices to the voters. If the voters do not

like their representatives' agendas or voting decisions, they are free to vote them out of office.

Barry v. Johns, 82 Wn. App. 865, 870 (1996). <http://www.mrsc.org/mc/courts/appellate/082wnapp/082wnapp0865.htm>

The *Barry v. Johns* case explored a dispute among city of Mountlake Terrace council members. Two council members served on the board of a non-profit community organization that supported programs for at-risk youth. One council member challenged the other council members' participation in the decision regarding contracting with the community organization. The Court rejected the challenge on the basis that RCW 42.23.030 applied only to municipal contracts involving business transactions, employment matters, and other financial interests.

Good Faith Is Not a Defense

A more recent appellate court decision emphasized the extent of the municipal Code of Ethics. In a case involving a city of Raymond commissioner (at

the time, Raymond was a commission form of government), a general contractor on a city public works job bought \$11,917.80 worth of rock from that commissioner's business. The Court found that "in spite of well-intentioned attempts to avoid a prohibited conflict of interest," the commissioner violated the plain language of chapter 42.23 RCW. That the commissioner did not vote on the particular contract did not shield the commissioner from statutory violation. See *City of Raymond v. Runyan*, 93 Wn. App. 127 (1998). <http://www.mrsc.org/mc/courts/appellate/093wnapp/093wnapp0127.htm>

Prohibited Acts Generally

Finally, local elected officials are reminded of the broad extent of the prohibition under the Code of Ethics that:

no municipal officer may use his or her position to secure special privileges or exemptions for himself, herself or others.

RCW 42.23.070 (1).

In 2002, the Washington State Supreme Court found this provision of the Code of Ethics to be a broad statement of public policy, the potential violation of which could give rise to a lawsuit by a disgruntled former employee. See *Hubbard v. Spokane County*, 146 Wn.2d 699 (2002). http://www.mrsc.org/mc/courts/supreme/Slip_Opinions/709751di1.htm

When your moral compass starts spinning, it is probably for a good reason. Be careful, and look for help from your available resources. The Municipal Research and Services Center of Washington maintains a number of articles and research for further information on the subject of municipal ethics at <http://www.mrsc.org/Subjects/Legal/conflict/confweb.aspx>. If there are questions concerning these issues, please check with your city or county prosecuting attorney. ■

P. Stephen DiJulio, a partner at Foster Pepper PLLC, focuses on litigation involving state and local governments, and land use and environmental law. Particular experience includes representation of jurisdictions on eminent domain, utilities (water, wastewater, storm water, solid waste systems), local improvement districts, facility siting and contractor litigation.

Hugh D. Spitzer, a partner at Foster Pepper PLLC, focuses on municipal and public finance practice, including general government, housing, water, wastewater, solid waste, transportation and school finance. Experience includes a broad range of revenue and general obligation financings as bond counsel and underwriter's counsel.

www.foster.com

Heads Up

Emerging information for local government

Urban Development Around Pipeline Corridors – Planning Needed

– Hazardous liquid and natural gas transmission pipelines are mostly out of sight and often out of mind, until, for example, it is discovered that a housing development is being proposed on a parcel crossed by a transmission pipeline. Cities and counties need to plan for growth along pipeline corridors. What will your jurisdiction do when a developer files an application to build a subdivision on a parcel crossed by a major transmission pipeline? Will you allow it? Do you have any options? Can SEPA regulations help you?

Policy decisions need to be made before development applications are filed. Recommendations for prudent planning can be initiated by a jurisdiction's planners, by the legislative body (city/town council or county board of commissioners), or by the planning commission, but somebody needs to raise the issue and get it discussed. Good results come from good planning.

A new publication, *Land Use Planning in Proximity to Natural Gas and Hazardous Liquid Transmission Pipelines in Washington State*, June 2006, provides practical guidance for dealing with this crucial planning issue. This is a collaborative report prepared by state and local governments and pipeline industry representatives. Included in the report are sample permit processing procedures, examples of setback requirements from other jurisdictions, and the names and addresses of people to contact for further information on these matters. You may also contact Jim Doherty, MRSC Legal Consultant, who is taking the lead on pipeline issues for Municipal Research. This new publication may be found at <http://www.mrsc.org/artdocmisc/andusegas.pdf>.

War on Drugs: A New View – The King County Bar Association (KCBA) is lead-

ing a partnership of lawyers, doctors, pharmacists, and other professionals in Washington to find more effective ways to reduce the harm and costs of drug abuse - a workable alternative to the "War on Drugs" itself. What began over four years ago as a transitory study of current drug laws has evolved into a comprehensive, long-term effort to bring about meaningful reform of drug policy. The principal objectives of this effort are reductions in crime and public disorder, improvement of the public health, better protection of children, and wiser use of scarce public resources. For more information, see the KCBA's project website and view the report, *Effective Drug Control: Toward a New Legal Framework*, at <http://www.kcba.org/ScriptContent/KCBA/druglaw/pdf/EffectiveDrugControl.pdf>.

Dealing with Mentally Ill in the Criminal Justice System – The Criminal Justice/Mental Health Consensus Project – Each year, ten million people with mental illness are booked into U.S. jails. The Criminal Justice/Mental Health Consensus Project, coordinated by the Council of State Governments, was created in response to requests for recommendations to improve the criminal justice system's response to people with mental illnesses. Efforts are directed at defining measures that state legislators and representatives of the criminal justice, law enforcement, and mental health communities agree will improve the response to people with mental illness who are in contact (or at high risk of involvement) with the criminal justice system. Project partners established advisory boards to guide and contribute to the development of a *Consensus Project Report* (2002). The report provides 47 policy statements that can serve as a guide or prompt an initiative to improve the criminal justice system's response to people with mental illness.

The Consensus Project website provides, in addition to the *Consensus*

Report, other publications, program profiles, and technical assistance information. Currently feed back is being sought on a document developed in cooperation with the Police Executive Research Forum and the Bureau of Justice Assistance. It identifies and describes ten essential elements of any specialized police-based program to help improve outcomes of police encounters with people with mental illnesses. For more information on the Consensus Project, go to <http://consensusproject.org>. A login account needs to be created before downloading documents (a simple process). There also is an informative monthly e-mail newsletter.

Washington Information Number (WIN 2-1-1) System Update – The 2-1-1 System is a nationwide, three-digit dialing code assigned by the Federal Communications Commission for the exclusive purpose of providing widespread access to health and human services through the community information and referral system. The implementation of 2-1-1 is being spearheaded by United Way and comprehensive and specialized information and referral agencies in states and local communities. In 2003, the Washington State Legislature supported the implementation of a 2-1-1 system in our state. (See Chapter 43.211 RCW.)

The Washington Information Number (WIN 2-1-1) launched operations in February 2006. As of August 2006, it covered 22 of 39 counties with over four million people - 65% of Washington's population. In July 2006, Pierce County 2-1-1 began testing phone and database systems in preparation for going live in October. Pierce County and Peninsula's 2-1-1 service anticipates being live to the public in October 2006. This will bring 2-1-1 service to another 700,000+ Washington residents.

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New Acquisitions

New resource materials now available

This list contains new publications, ordinances, and other materials recently received by the MRSC library. We also prepare a more comprehensive list of new acquisitions each month which is posted on our Web site at www.mrsc.org/library/newacq.htm. If you would like to borrow one or more of these publications, please contact Peter Breen in our library at (206) 625-1300 or library@mrsc.org.

Energy Resources and Conservation

Petroleum and Natural Gas Pipeline Response Guidebook: A Guidebook for First Responders During the Initial Phase of a Petroleum or Natural Gas Pipeline Incident, Olympia, WA, State Fire Marshal, 2002, 1 v. (various pagings). (EC 6.4000 P48 2002)

Finance

Cash Flow Forecasting: The Key to Successful Investing, Association of Public Treasurers of the United States and Canada, 1st ed., Glen Echo, MD, Public Treasury Institute, 2003, 50 p., ill. (F 1.1100 C38 2003)

Governance

The Wilder Nonprofit Field Guide to Conducting Community Forums: Engaging Citizens, Mobilizing Communities, by Carol Lukas and Linda Hoskins, Saint Paul, MN, A.H. Wilder Foundation, 2003, xi, 112 p., ill. (G 1.6000 W54 2003)

Health and Human Services

Working with Differences in Communities: A Handbook for those Who Care About Creating Inclusive Communities, by Ann C. Schaubert, Corvallis, OR, Oregon State University Extension Service, 2002, vii, 343 p., ill. (H 4.0000 W67 2002)

Housing

Living and Working in Paradise: Why Housing is Too Expensive and What Communities Can Do About It, by William S. Hettinger, Windham, CT, Thames River Publisher, 2005, 205 p. (HO 4.4000 L59 2005)

Planning and Land Use

Placemaking on a Budget: Improving Small Towns, Neighborhoods, and Downtowns without Spending a Lot of Money, by Al Zelinka and Susan Jackson Harden, Chicago, IL, American

Planning Association, 2005, xii, 133 p. (PL 14.0000 P53 2005)

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2004, xxi, 183 p., ill., 22 x 28 cm. + 1 CD-ROM (4 3/4 in.). (PL 5.3000 P53 2004)

Walk for Your Life!: Restoring our Walkways to Enhance Community Life, Improve Street Safety and Reduce Obesity, by Marie Demers, 1st ed., Danbury, CT, Vital Health Publishers, 2005, 243 p., ill. (PL 10.4100 W36 2005)

Streets and Sidewalks

American National Standard Practice for Roadway Lighting, prepared by the Standard Practice Subcommittee of the IESNA Roadway Lighting Committee, New York, NY, Illuminating Engineering Society of North America, 1999, 61 p., ill. (S 2.6000 A64 1999)

Transportation and Traffic

Parking Management Best Practices, by Todd A. Litman, 1st ed., Chicago, IL, American Planning Association, 2006, xx, 292 p. (T 7.0000 P372 2006)

Shared Parking, by Mary S. Smith, 2nd ed., Washington, DC, Urban Land Institute, 2005, 1 computer compact disc: digital, 4-3/4 in., 157 p. (T 7.2000 S52 2005)▶



allowed to speak during council or commission meetings. It is up to the council or commission to decide its own rules about public participation. Most, if not all, city and county legislative bodies set aside a limited period of time during regular meetings for public comment, but state law does not require this. There may be times when the body may want public comment, but there may also be times when the committee wants to eliminate public comment entirely. Whatever the council or board decides, it is a good idea to state the rules at the beginning of the meeting. ▶

How to “Ask MRSC.” Assistance from MRSC may be obtained by **Phone** (206) 625-1300 or 1-800-933-6772; **Letter** 2601 4th Avenue, Suite 800, Seattle, WA, 98121-1280; **Fax** (206) 625-1220; or **E-mail** mrsc@mrsc.org. Telephone inquiry service is available from 8:00 a.m. to 5:00 p.m. If a consultant is not immediately available, you can record a detailed request on voice mail 24-hours a day, and a staff member will call back as soon as possible.

Statewide 2-1-1 access is anticipated to be complete by the end of December 2006. Work on cell phone access will begin in September with a goal of statewide wireless coverage by the end of 2006. A contract for \$2.5 million in state operating support went into effect as of July 1, 2006. All call centers have hired additional data management staff with funding WIN 2-1-1 secured from the Bill & Melinda Gates Foundation. For more information see www.WIN211.org and www.211.org. ▶

Hot off the Press

New MRSC Publications

The Bidding Book for Washington Cities and Towns, Report No. 52, September 2006

Budget Suggestions for 2007, Information Bulletin No. 525, August 2006

Municipal Incorporation Guide, Report No. 21, July 2006

Public Records Act for Washington Cities and Counties, Report No. 61, July 2006

Need a Copy?

These publications are available to Washington State municipal officials for purchase or **on loan** (<http://mrsc.org/library/loanrqst.aspx>) from the MRSC Library. To order a publication, please send us an **order form** (<http://mrsc.org/publications/puborder.pdf>) with payment (pre-payment is required for all publication purchases). You can also **order online with a credit card** (<http://mrsc.org/publications/order/form.aspx>).

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Here it Comes Again . . .

Budget Season

By Toni Nelson, Small Cities Specialist, State Auditors Office

Two good indications that the budget season is upon us are the fact that the Municipal Research and Services Center (MRSC) has released its annual publication, *Budget Suggestions* and the Association of Washington Cities has just provided its annual "Introduction to Municipal Budgeting" workshops. Both of these are invaluable tools, whether you are a multi-term council member or you are new to municipal government.

In Washington, the budget process is set by state law (Chapter 35.33 for first- (under 300,000) and second-class municipalities and towns, and Chapter 35A.33 RCW for cities under the optional municipal code. (Chapter 35.32A RCW applies to cities with populations over 300,000). For most of you, budgeting is done annually.

Budgeting Basics

The budget process is typically thought of as a financial activity done to satisfy state law, however it is also the process of planning for the future. A city cannot implement any project, program, or plan without a formally adopted budget ordinance that authorizes the appropriation. The budget planning process determines the types and levels of services that can and will be provided by the city given the resources available. Consideration should be given to all of the departments, programs, and services provided by your city to determine whether or not there are sufficient resources to continue, maintain, expand, or reduce those services.

Essential Elements of the Budget Process

There are five elements of the budget process that are considered essential:

1. Establishing priorities (goal/vision

statement) – to provide a sense of direction.

2. Determining capital needs to provide short and long term budgeting strategies.
3. Realistic revenue forecasting – based upon both qualitative and quantitative forecasting methods that use common sense tests, local resources, and documentation as a basis for forecasting.
4. Budget proposals with level of service objectives – budget proposals that clearly reflect the priorities, goals, and visions of the city.
5. Timely presentation of plans and financial data – adherence to the budget calendar and transmittal of financial data to the public, council, and staff.

The budget process should allow decision-makers to see how resources are being used to meet the goals and objectives of the community and that those objectives are balanced with the resources available to provide the required level of service.

Budget Calendar

As outlined above, there are some essential elements of the budget process that actually take place prior to the formal budget calendar beginning. Items 1 and 2 above are examples of those elements that are not included within the budget RCW citations (35.33/35A.33) but are critical to a successfully adopted budget. The budget calendar set by state law begins on the second Monday in September and ends with adoption of the budget ordinance by the last day of the fiscal year (December 31st). Between the beginning and the end is a plethora of activities that include data collection, revenue projection, budget estimates, public hearings, and ordinance adop-

tion. You can find this calendar in the *Budget Suggestions* publication released by MRSC in August of each year.

Budget Review, Presentation, Adoption

The preliminary budget must reflect the complete financial program of the city, showing the budget request by program/department and the sources of revenue proposed to fund them. The review phase of budgeting provides the opportunity to evaluate whether or not the budget proposals meet the goals and objectives of the city. It is also the time to assess whether available resources are sufficient to meet budget requests. The law states appropriations must be limited to total estimated resources. Upon completion of this phase of review, the budget document is ready to be presented to the public.

Cities must hold at least two hearings on the preliminary budget in addition to the final budget hearing that must be held on or before the first Monday of December. Upon completion of the public hearing phase, the city must adopt the budget document by ordinance prior to the beginning of the New Year (no later than December 31st).

Budget Season is Now

As you can see there is not much room for procrastination during the budget season. Within a twelve (12) week period the city will need to hold a minimum of three (3) public hearings on the budget document, plus an additional public hearing that is required for the setting of property tax levies. Attention to detail and keeping the city's goals and objectives in mind will help you develop a budget that will meet the needs of the city and assure legal compliance. ■

Toni Nelson is the "Small Cities Specialist" for the Washington State Auditor's Office, providing both on and off site financial training and assistance to smaller cities and towns throughout the state. Ms. Nelson has been working with the Auditors office for 6 years and prior to that was the Clerk/Treasurer for a small town for 9 years. She has co-authored the "Small Cities Manual" a detailed reference guide for new clerk/treasurers on governmental accounting procedures and presents numerous training workshops throughout the state for AWC, WFOA, WMTA, WMCA and local/regional organizations such as EWFOA and SCW/MCA. Ms. Nelson is also a member of and conference track coordinator for the WFOA Education Committee.

Communicating with Citizens

Myth or Fact? Citizen Engagement Tool

Spokane Valley's "Myth or Fact" web page asks citizens if they have heard something about the city and wondered if it's true. Citizens can submit their questions via e-mail and the city then posts a response explaining whether the rumor is myth or fact. See <http://www.spokanevalley.org/sub.aspx?id=276>.

Keep in Touch with Your City

Here's a great way for citizens to keep on top of what's happening in the city of **Lake Forest Park**. From the city website, citizens

choose from a list the topic or topics they would like to receive bulletins about. They then e-mail the form to the city and the city regularly sends them updates on these issues by e-mail. See <http://www.cityofflp.com/city/keepintouch.html>.

Federal Way has a similar program. From a list on the city website, a citizen may select the type of information they want to subscribe to and the city e-mails them related information. See <http://www.cityoffederalway.com/esubscribe.aspx>.▶



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