



# **CITY OF CAMAS**

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## **Respecting the Roles of Policy Makers and Administrators**

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# Disclaimer

These materials are not a complete analysis of the law in this area and represent a starting point for discussion. Specific legal problems arise in certain factual situations and require individualized solutions, none of which are provided by these materials.

Anyone reading or otherwise using these materials should not rely on them as a substitute for legal advice.

**CONSULT YOUR CITY ATTORNEY !!**

# GUIDING PRINCIPLES

Cities exercise power under the state constitution and within the limits established by statute and the state constitution.

Power flows from the state based on:

**1. Classification**

*City or Town;  
Classes or City Code*



**2. Form of Government**

*Mayor/Council or  
City Manager*

# Common Characteristics

- Formal action must be taken in a public forum
- Regular meetings
  - Time set by ordinance
  - At the announced location
  - Rules of conduct; e.g. abstention
- Subject to Open Public Meetings Act (RCW 42.30)
- Special Meetings



# City Council Power and Authority

- 1) Powers are exercised by a majority of the City Council in an open public meeting
- 2) Council Members have the right to speak in accord with City Council rules and cast a vote
- 3) Outside of the meeting context, individual City Council Members are limited to a right of inquiry as any citizen

# The City Council's Most Important Functions

## Adopting Policy

- Use ideas from a variety of sources: staff, community groups, advisory committees, chambers of commerce, etc.
- Consider the merits of proposals and then approve, modify or reject them
- In doing so, Council Members analyze community needs, program alternatives, and available resources
- The budget and comprehensive plan are powerful policy tools that are adopted by ordinance



# Inertia of the Budget System

Employee Salary: 60-80 % of budget  
with multi-year Collective Bargaining  
Agreements

Limits on Revenue

Long Term Planning: Capital  
Improvement Plan (CIP) and  
Transportation Improvement Plan (TIP)

- ✓ Six-year documents
- ✓ Key to successful Grantsmanship
- ✓ GMA, Citizen Involvement Plan and  
Transparency





# Responding to Constituent Complaints

1. Residents often contact a Council Member when they have a problem
2. Keep in mind that you lack the authority to take action in administrative matters. Be careful not to appear to bind the City—no promises!
3. Council Member may:
  - a) Refer to appropriate staff member
  - b) Raise at City Council meeting
  - c) Discuss complaints against public officials in executive session



# Common Characteristics

## Executive sessions (RCW 42.30.110)

- Matters of national security
- Relating to real estate acquisition, sale or lease
- Negotiations on performance of publicly bid contracts
- Receive and evaluate complaints or charges against public officer or employee
- Evaluate qualifications of applicants or review performance of public employee
- Evaluate qualifications of candidate for appointment to public office
- Discussions with legal counsel on agency enforcement actions or pending or potential litigation



# Labor Negotiation

Development of Strategy: Not a meeting under OPMA (RCW 42.30.140)



Negotiation Sessions: PERC 2019

*Teamsters Local 839 v. Benton-Franklin County:*

- Both parties must agree to open negotiations in the public.
- Format of sessions is a permissive subject of bargaining.

# Special Meetings

- Called by Mayor or majority of City Council members
- 24-hour written notice
- Action items limited to those listed in the notice



# OPMA

## What's a Meeting?

“A meeting at which action is taken”





**ACTION IS  
THE TRANSACTION  
OF PUBLIC BUSINESS**

# TRANSACTION BY

1) receipt of public testimony

2) deliberation

3) review

4) evaluations

5) “final action” collective decision “or an actual vote” by a majority of the City Council upon a “motion, proposal, resolution, order or ordinance’



# KUDOS

- Establishment of rules regarding Ad Hoc and other Council Committees



- Avoid Serial Meeting Violations of the PRA (also known as a Rolling Quorum)
- Establish a clear public record



# Guiding Principles

- Must follow existing statutes, ordinances and resolutions until amended
- City Council has only those powers specifically granted by statute



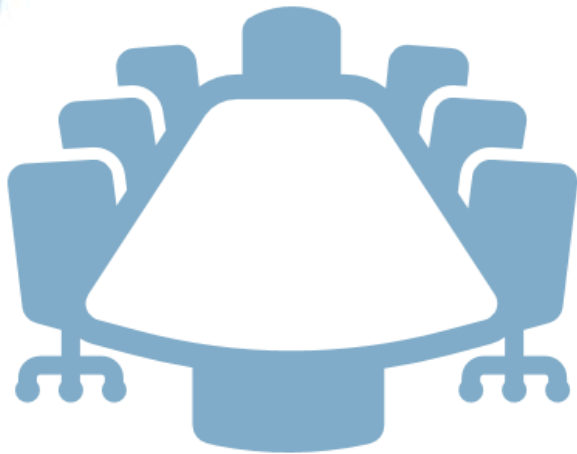
- The “public’s work” must be done in public
  - Meetings
  - Record

# Guiding Principles

- Revenues and expenditures are strictly regulated
  - ✓ Costs of services – tax vs fee
  - ✓ Gifts of public funds
- Expenditures must conform to the budget
- Mayor may move funds within a Fund (General Fund, Utility Fund for example) subject to limitations established by the City Council



# Guiding Principles



- In Washington, City Councils in code cities are granted the right to write and adopt their own rules of process and procedure

- Follow your own rules:  
Camas Res.20-005
- The Chair of the meeting (Mayor) is responsible to enforce those rules



# Guiding Principles

- Public Works projects require a public bidding process
  - ✓ Small works roster
  - ✓ Prevailing wage
  
- Limited ability to use volunteers
  - ✓ Collective bargaining issues
  - ✓ Public works limitations



# Guiding Principles

## Immunity from Tort Liability

- ✓ Act in good faith
- ✓ Action objectively legally reasonable
- ✓ Liability insurance provided by municipality
- ✓ Indemnity for actions within Scope of Authority



# City Manager

## Interference by Councilmembers

### RCW 35A.13.120

Neither the council, nor any of its committees or members, shall direct the appointment of any person to, or his or her removal from, office by the city manager or any of his or her subordinates.

Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any committee or member thereof shall give orders to any subordinate of the city manager, either publicly or privately.

The provisions of this section do not prohibit the council, while in open session, from fully and freely discussing with the city manager anything pertaining to appointments and removals of city officers and employees and city affairs.

# Mayor / Council Form

1. No similar statute but powers of City Council and the executive virtually the same
2. Mayors commonly direct staff to respond through a process or designated contacts such as department heads:
  - a) budget impact
  - b) motion of council
  - c) “power imbalance” issues



# Roles of Mayor & City Council

## Policy-Making & Implementation



### Mayor

- Keep council informed on city affairs
- Propose policy
- Implement policy adopted by council
- Report back to council regarding policy implementation and possible improvements



### Council

- Listen to city residents – keep track of their concerns and wishes
- Discuss, develop and adopt city policies governing many aspects of city operations
- Make broad-based policy decisions



# City Administrator is Not a City Manager

- City Administrator speaks for the Mayor and exercises the power delegated to him/her by the Mayor
- Serves at the pleasure of the Mayor and follows the Mayor's direction
- Position authorized by Council and filled by the Mayor
- City Manager has a statutory toolkit of Powers
- City Manager is protected by statute from Council interference
- Appointed and removed by action of the City Council

# Labor and Personnel



## Mayor/City Manager

### Hire & fire subject to:

- 1) Civil Service System
- 2) Collective Bargaining Agreement and employment contracts
- 3) Within the budget
- 4) Council confirmation when required

### Direct employees within:

- 1) Budget
- 2) Job descriptions
- 3) Ordinance structures



## City Council

*(at public meetings and by ordinance when required)*

- 1) Create Civil Service System
- 2) Direct negotiation of and approve all Collective Bargaining Agreements and employment contracts (Use closed session)
- 3) Approve budget, provide for salaries and benefits through annual salary ordinance
- 4) May establish departments, positions and job descriptions (Note overlap with budget and CBA's)

# Budget



## Mayor/City Manager

- 1) Prepare and present preliminary budget
  - a) Staff prepares budget estimates and requests on or before October's first business date
  - b) Submit preliminary budget proposal
  - c) On or before November 1<sup>st</sup>, Mayor presents budget to City Council with budget message



## City Council

- 1) Hold public hearing(s), adopt budget
- 2) Establish tax rates, fee schedules
- 3) Set salaries and benefits (CBA limits)
- 4) May establish
  - a) limits on intrafund transfers
  - b) Contingency funds

# Budget



## Mayor/City Manager

- 2) Administer budget
  - a) Make intra-fund transfers (within General Fund and Utility Funds) unless limited by ordinance
  - b) Request council authorization for amendments for unforeseen situations or use contingency funds



## City Council

- 5) Amend budget
  - a) “wages, hours and conditions of employment” by ordinance at any time: RCW 35A.34.180
  - b) Mid-biennial adjustment by Majority
  - c) Majority Plus One – Super Majority.
    - i) “Decrease, revoke or recall” expenditures and re-appropriate. Annual true-up.
    - ii) Emergencies – Foreseeable and unforeseen.

# Roles of the Mayor & City Council

## Land Use and Planning



### Mayor

- Supervise planning staff, who make recommendations to the Planning Commission and City Council
- Supervise staff who enforce building codes and other development regulations
- Supervise permit process



### City Council

- Policy - Adopt and amend zoning, development regulations, and comprehensive plan after receiving input from staff, residents, Planning Commission, and others
- GMA – Public participation plan quasi-judicial
- Act in quasi-judicial capacity to decide certain land use issues (hearing examiner system)

# Day-to-Day Activities



## Mayor

General supervision over administrative affairs of City

- a) Within the budget
- b) Enforce ordinances through police and code enforcement
- c) Administer contracts
- d) Request approval for civil litigation to enforce contract provisions



## City Council

Create administrative structure

- a) Budget process
- b) Address health, safety and welfare needs by ordinance through exercise of police powers
- c) Provide for contract approval by council or administration within set parameters

# Roles of the Executive & City Council

## City Expenditures and Contracts



### Mayor

- Sign contracts, supervise contract performance & enforce contracts



### City Council

- Approve contracts and all city expenditures

**Mayor has no authority to speak for and bind the City unless specifically authorized by ordinance adopted by the City Council.**

Authorization can be

- a) Specific -- approve contract
- b) General – approve contracts under specified amount and by adoption of a Small Works Roster

# Roles of the Mayor & City Council

## Relationships with Other Entities



### Mayor

*RCW 35A.12.100*

- Preside at meetings
- Ceremonial lead
- Governor and military law
- All rights, privileges of City Councilmember

Mayor Pro Tem – appoint by City Council



### City Council

- Decide whether city will participate in optional government organizations; provide guidance to Mayor or other city representatives
- May serve as city representative on certain intergovernmental bodies where mayor is not designated member



# Mayor's Limited Legislative Role In Mayor/Council Form

1. Tie-breaking vote – only in matters other than:
  - A. Passage of ordinance
  - B. Grant or revocation of franchise or license
  - C. Resolution of payment of money



2. Veto power –  
override by majority  
plus one of City Council

# FOR OUR DISCUSSION

# City Council Right of Inquiry: Striking an Appropriate Balance

- Obtaining necessary information without impairing established priorities and within budget
- Follow path set by Mayor/City Manager
- Do not approach employees directly
- Use AWC and MRSC resources



# Using an Executive Session



- 1) Performance of public official or qualifications of applicant
- 2) Complaints against public official or employee.
  - A) One opportunity to discuss
  - B) Right to hearing
  - C) Name clearing hearing

RCW 42.30.11

# The Budget is a Living Document

- Role of intra-fund transfers
- Appropriate use of contingency funds
  - ✓ National standards
  - ✓ Cumulative totals
- Interim approvals and annual budget amendments
- Conformance with comprehensive plan, public works and park purchases



# Legislating the Administrative Structure

- Job descriptions and confirmations of appointments (alternative tools by statute)
  - ✓ Key employees
  - ✓ Civil service and CBAs
- Anticipate change – Avoid unnecessary detail in budget ordinances
- Salary ordinance and the budget
  - ✓ Salary line items vs. number of positions
  - ✓ Simplified process for salary and benefit changes
- The personnel manual
  - ✓ Administration (work rules)
  - ✓ Budgetary (benefits)



# The Bird Sanctuary

A developer wants to develop a much-loved neighborhood vacant property used for years as a bird sanctuary. Your phone rings off the hook. How may you respond in these contexts?

- Comprehensive plan amendment proposed
- Rezone application for the entire neighborhood
- Rezone application for the bird sanctuary only
- Staff approves a conditional use permit



# Efficient Contract Negotiation

A. Mayor/City Manager informs City Council and obtains negotiating authority

1) Publicly bid contracts

2) Collective Bargaining

3) Legal settlements

4) Executive session not available for no-bid contracts

B. Role of budget and comprehensive plans





# Efficient Contract Negotiation

- C. Mayor and staff negotiate. Be sensitive to the “no-surprise rule.” Changes in parameters of bargaining authority (PERC term of art)



- D. Contract returns to council for approval
  - 1) Retrograde bargaining
  - 2) Efficiency of system depends on timely communication

# Questions?

