

Mayor & Council



Roles and Responsibilities Manual

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WELCOME

The City of Gautier Staff are pleased that you have become a member of the City's governing body. Our community relies on the dedication of individuals with pride in their community and the initiative to become involved in the local municipal government process.



As a member of the City Council, you will be asked to make policy decisions, enact laws, levy taxes, and act for the benefit and best interest of the City of Gautier. You will be performing a valuable service by addressing community issues and needs as you represent your constituents. It is a service that is needed and that carries with it great responsibilities, which, hopefully, this manual will help you meet without feeling overwhelmed.

City officials look forward to your contribution as we all work together to provide efficient municipal services that are responsive to local needs and expectations. The City Council appreciates your willingness to work in this capacity and hopes your experience will be stimulating, enjoyable and satisfying. May you be productive in this endeavor.

INTRODUCTION

This handbook has been prepared to help elected officials of the City of Gautier in carrying out the duties and responsibilities of public office. It is intended to be used for reference purposes only. This publication is based on state and federal legislation, general local government reference works, other detailed municipal manuals and similar publications dealing with municipal governments that have been published by the League of Mississippi Municipalities.



In the various sections of this manual, information has been provided on the basic structure of city government, as well as some guidance on conducting council meetings, advice on how to govern the City of Gautier effectively, descriptions of how the city is organized, details of what is required for public hearings, and information on creating a budget. In addition, some actions that public officials sometimes do not realize could create criminal liability are listed in the hope that such problems are best avoided through receiving good information.

Finally, the City Council has established a number of committees, commissions and boards to review city programs, projects and community issues. These groups provide greater community participation and can be a valuable source of information as they make recommendations to the City Council on specific areas. These bodies are all organized either through city ordinance or state statutes, which also prescribe their duties and authority.

If you have questions regarding your role, authority or area of responsibility within the aspect as a member of the City Council of the City of Gautier, please feel free to direct your questions or concerns to the City Attorney and do not hesitate also to receive clarification or assistance from the offices of the City Manager.

VALUES

⌘ PEOPLE ⌘ INTEGRITY ⌘ PROSPERITY

We value government action that is taken openly and believe that responsive government is our first priority. We encourage citizen participation for the betterment of our community and strive to conduct business with integrity to instill public trust.

Quality of Life

We value a safe, family friendly environment in which to build our future and conduct business. We foster recreation, public safety and youth activities, and encourage support of the arts, libraries, and education. We believe in sound economic development, high standard infrastructure and responsible planning for sustainable growth.

Excellence

We value excellence in all things. Professionalism, accountability, and innovation drive our commitment to excellent customer service.

Employees

We value a work environment that emphasizes teamwork, respect and dignity and supports our employees in their efforts to provide excellent customer service.

Diversity

We value diversity in the workplace and in the community.

VISION/MISSION

Gautier's mission statement and values were adopted with input from citizens and employees during the 2012 strategic planning process.

Vision

We strive to achieve efficient and responsible service; a highly trained, competent workforce; and responsible stewardship of resources.

Mission

To enhance the quality-of-life of the citizens of Gautier and our neighborhoods by providing exceptional government services.

- I. Provide a safe environment through the development of partnerships with citizens, community groups and law enforcement, emphasizing crime prevention and a variety of programs aimed at youth.
- II. Create a vibrant community by expanding our economic development efforts striving to improve education, and growing our recreational, cultural, arts and library programs.
- III. Be innovative in seeking solutions, be bold in taking on the challenges of our community and use the entire range of resources, skills and technology available throughout the community for the betterment of all.
- IV. Sustain the economic, environmental and physical health of our community by supporting new medical and health care services; creating a program of sustainable development and fostering continued job creation.
- V. Continue to enhance the quality of life for our residents by embracing our small town spirit, ensuring we maintain strong neighborhoods, valuing and strengthening intergenerational ties among citizens and providing a range of services that support the whole community.
- VI. Encourage community maintenance to aesthetically improve the City.
- VII. Recreational Waterfront. Cultivate public and private investments along the Coastline.
- VIII. Focus on the Town Center Master Plan and I-10/HWY 57 Corridor. Promote economic renewal and strategic development.
- IX. Environmentally Sustainable Local Government Policies. Develop and implement pro-environmental policies.
- X. College Park Community Revitalization. Stimulate further redevelopment

opportunities.

- XI. Operational Performance and Efficiency. Focus on improving efficiency and performance.
- XII. Promote Public Safety. Reduce violent crime among youth and adults
- XIII. Customer Service. Maintain and improve the quality our customers' experiences while recognizing that the City is involved in many other important activities, these eight initiatives will be our focus as we plan future activities and deploy resources.

GENERAL INFORMATION FOR NEWLY ELECTED COUNCIL

- According to the city ordinances, the Council meetings are to be held every 1st and 3rd Tuesday of each month, usually starting at 6:30 pm. These times may be adjusted as necessary to meet scheduling needs and the time demands of scheduled agenda items. The agenda and packets of backup information are available Thursday in-office, and will be delivered to your home by the Gautier Police Department on the Friday prior to the scheduled meeting.
- It is the responsibility of each council member to come to the meetings fully prepared. This means that you should be reading through the entire packet of information made available to you. If you have any questions regarding the information please contact City Hall to research the answer to your question prior to the meeting.
- Each council member has a mailbox at City Hall. It is the responsibility of each council member to periodically check his or her mailbox.
- Each new Council member needs to visit the payroll department in City Hall to fill out the necessary employment forms such as the W-4, I-9 etc...
- Be sure to familiarize yourself with the 'Personnel Policy Manual', '5-Year Strategic Plan' and the 'City of Gautier Annual Budget'.
- The Gautier City Council conducts their meeting according to 'Roberts Rules of Order'. Please familiarize yourself with the "Meeting Procedures Fundamentals" booklet in your packet. It is also highly recommended that each new Council member attend the Public Official's Workshop that is offered through the Mississippi Municipal League.
- At times the Council will convene in a closed session. Confidentiality is extremely important and should be strictly adhered to. Items discussed in closed session should not be shared with other persons outside the realm of the Council Chambers. Closed sessions are entitled "executive sessions" and are only permissible in specific instances. Refer to the City Council Handbook for state statutes regarding allowable use.
- Council members will be appointed to chair at least one civic committee/board. It is very important that you develop open and regular communication with the City Manager and volunteer committee members in order to gather information to help you effectively volunteer on a public committee/board.

LEGISLATIVE BRANCH



Powers of Mayor and City Council

Gautier is governed by a council consisting of councilmen and the mayor. The council serves as the legislative arm of city government. Individual councilmen are not empowered to act on behalf of the city, and can only exercise power when a quorum of the council is present. The mayor is a member of the council and presides over its meetings. In the mayor's absence the mayor pro-tem presides over meetings.

In contrast to other city offices, the Mississippi Annotated Code does not provide a list of duties for individual councilmen, although the City Council has full legislative (or policy-making) authority. In addition, the City Council appoints the City Manager and confirms appointments made by the Mayor. It has authority for the management and control of City property; management and control of city finances and highways; the power to act for the government and good order of the City, for its commercial benefit, and for the health, safety, and welfare of the public. The Council enacts ordinances, resolutions and motions; creates committees, boards and commissions; approves and amends the annual budget; levies taxes, approves the paying of claims made against the city; grants licenses issued by the city; and enters into contracts on behalf of the city. It may carry out its powers by license, regulation, suppression, borrowing of money, taxation, special assessment, appropriation, fine, imprisonment, confiscation, and other necessary and convenient and legal means.

The City Council does not enjoy executive (or administrative) powers of city government, which are carried out by the City Manager, who serves at the pleasure of the Council.

Appointments by City Council (Subject to Council Confirmation)

Legislative (Policy-Recommendation or Advisory) Boards:

- Planning Commission
- Civil Service Commission
- Recreation Advisory Committee
- Technical Review Committee

Administrative (Decision-Making) Boards:

- Library Board (decision-making on most matters of Library operations)
- Election Committees
- EOC

EXECUTIVE / ADMINISTRATIVE BRANCH

The city manager is a statutorily created position. To further consolidate the municipal services and create efficiency measures, the offices of City Clerk and Treasurer/Comptroller were placed under the direction of City Manager for the City of Gautier.

The City Council appoints the City Manager on the basis of merit, who serves for a four year renewable term at the pleasure of the Council. The City Manager is the head of city administration, and possesses and exercises executive and administrative powers of city government. The City Manager has no legislative powers. The City Manager is removable by a 2/3^{rds} affirmative vote of the entire membership of the City council.

Powers of City Manager

The City Manager shall carry out the directives of the Mayor and City Council that may require administrative implementation and shall promptly report the results obtained and any difficulties encountered. The City Manager shall direct, coordinate, and expedite the activities of all city departments, except where such authority is vested by Mississippi State Statutes or city ordinances and resolutions in boards, commissions or other city officers.

He or she shall be responsible for the administration of all day-to-day operations of the city government, including monitoring of city compliance with Mississippi State Statutes, regulations, city resolutions and ordinances. The City Manager shall serve as an ex-officio member of all boards, committees and commissions of the city. *(See ordinances for complete list of duties)*

The Clerk duties are set forth by statute. Although the duties for city clerk's vary somewhat from municipality to municipality, they are in large part the same. Generally speaking, the clerk is entrusted with the care and custody of the corporate seal and all papers and records of the city. The city clerk oversees the office of the court clerk and is required to attend governing body meetings and keep a full record of the proceedings. The clerk is responsible for maintaining a minute book, and "ordinance book," and is also required to keep a record of all licenses and permits granted and record all bonds, in appropriate books. The clerk shall draw and sign all orders upon the treasury and keep a full account thereof in appropriate books. The clerk shall carefully preserve all receipts filed with the clerk. The clerk shall keep an accurate account with the treasurer and charge the treasurer with all tax lists presented for collection and with all moneys paid into the treasury. The clerk shall keep all records in the clerk's office open to inspection at all reasonable hours. The clerk is authorized to administer oaths and affirmations required by the state. This list of responsibilities of the clerk is not all-inclusive, but summarizes the duties as set forth by the Mississippi State Statutes.

Generally speaking, the treasurer/comptroller is responsible for collecting all city, school, county and state taxes, receiving all moneys belonging to the municipality or which by law are directed to be paid to the treasurer, and paying over the money in the treasurer's hand according to law. The treasurer must deposit municipal funds upon receipt into the public depository designated by the governing body and keep a detailed account in suitable books in such manner as the governing body shall direct. The treasurer shall keep in separate books an account of all fees received. The treasurer must make, at times specified by statute and as required by the governing body, a verified report to the governing body of moneys received and disbursed and of the condition of the treasury per Mississippi State Statutes.

The City Attorney represents the City Manager/Clerk/Treasurer in all areas wherein the City Manager/Clerk/Treasurer has exclusive or final authority.

Appointments by City Manager (Not Subject to Council Confirmation)

- City Clerk
- Deputy Clerks
- Treasurer/Comptroller

JUDICIAL BRANCH

The Mayor and Council appoint the municipal court judge and the city attorney. A municipal court is a true court of law and an integral part of the state court system. Municipal courts are also unique in many respects. Some of this uniqueness is revealed by taking a closer look at a municipal court jurisdiction and powers.

The term “jurisdiction” as applied to courts of law, including municipal courts, is used to describe the authority of a court to hear and decide a case or legal issue presented to it. The term encompasses many things, including territorial jurisdiction and subject matter jurisdiction. A municipal court is authorized to hear and decide actions for violations of municipal ordinances of the municipality that operates the court. Since a municipality ordinance is only enforceable within the boundaries of the municipality that enacted the ordinance, the territorial jurisdiction of a municipal court is the same as the geographical boundary of the municipality that operates the court.

The Municipal Court enters judgment or dismisses matters that come before it as the court deems just. Ordinance violations cited by police officers, the building inspector or fire inspector, are all referred to the jurisdiction of the Municipal Court. Most traffic law violations are also matters for the Court’s determination. All judgments entered by the court are reviewable by the Circuit Court if an appeal is brought within twenty days of any judgment.

The City Attorney represents the City as Prosecutor in all matters brought before the Municipal Court.

CHAIN OF COMMAND

All individual department heads and staff employees of the City of Gautier report to and are responsible to the City Manager. The City Attorney coordinates with the City Manager on executive and administrative matters, and reports to the Council on legislative matters.

The members of Boards report to the Chair or President of such Board, usually a department director or community planner. All members of all Boards regardless of who appointed them and what function they serve within the City's governmental structure, are part of the executive branch, making the City Manager an appropriate resource and informational source for all Boards and the appropriate final stop for questions and concerns. If a legal concern or need should arise, the boards should vote on whether it needs to seek the services of the City Attorney, who will then represent the Boards at the consent of Council, unless prohibited from doing so due to a conflict of interest.

The City Council members are responsible to the constituents. If a problem arises outside the anticipation of the 5-Year Strategic Plan, the council member reports to the council as a whole to direct the City Manager to take action. Or, most often, contact the City Manager who will conduct a response to the problem through the proper chain of command. The City Attorney represents the City Council in all areas wherein the City Council has exclusive or final authority.

Chain of Command

The chain of command is important to a good council member. Sometimes the chain of command of an organization can be a little confusing. This simple question/answer illustration of the chain of command might help you:

1. *Who manages the people you serve?* The direct line staff.
2. *Who manages the direct line staff?* Supervisor / Department Heads.
3. *Who manages supervisors / department heads?* The City Manager.
4. *Who manages the City Manager?* The Mayor and Council.
5. *Who manages the mayor and council?* Each other.

A good council member learns to respect this chain of command. For example, if you want to arrange a meeting directly with the people you serve, it would be a good idea to contact your city manager—who will make arrangements through supervisors and direct line staff.

The Council / Staff Connection

The following examples are true incidents of what the council/staff relationship should not be.

- One council member got a letter from a staff member complaining about the city manager. He took the letter to the Mayor who promptly called a council meeting to discuss the complaints—without informing the city manager. The council later solicited complaints from other staff members while the city manager was out of the city.
- Another council decided to examine staff personnel files. They simply wanted to understand more about what staff were accomplishing so they would be “assured that the city manager was doing a good job.”

What’s the Council’s Relationship to Staff?

Two simple rules of thumb for Council / Staff relations are:

1. All communication between the staff and council should be channeled through the city manager.
2. Councils do not manage staff, administrators do.

Here are some basic do’s and don’ts for individual council members in your relationship with staff...

- Don’t make commitments to staff. Only the **Full Council** can do that.
- Don’t act as a superior or supervisor to staff (that’s your city manager’s job)
- Do volunteer to help your organization—but in the same capacity and power as any other volunteer.
- Do go through proper channels—your city manager/administrator—when volunteering to help on a special event or project that will affect day-to-day operating procedures.
- Do show concern for the well-being of staff.
- Do remind staff members, when they contact you, that they should follow the chain of command when they have a problem—and that they should not take their problems directly to the council members.

How Should You Handle Staff Grievances?

QUESTION: “Do staff have a right to appeal grievances to the council?”

ANSWER: Personnel management is the city manager/administrator’s job. The personnel policy handbook establishes procedures for the administrative handling of personnel grievances. Unless there’s a policy to the contrary, staff grievances should not go to the council. When the council listens to staff grievances, you may actually be settling one problem and creating a couple of serious new problems:

- Grievances that go to the council give staff mixed signals about who’s in charge. If they can appeal any administrative decision to the council, the administrator’s authority with staff is greatly weakened.
- If the city manager makes a decision on a staff grievance and the board reverses that decision, the relationship between council and the city manager will be strained. The Council/Administrator team must speak with one voice that says “the city manager manages staff.”
- Here are some answers to questions about the council/staff relationship that council members frequently ask.
 - “How can council members know what’s going on if we can’t work with staff?” You can work with staff through the city manager. Ask your city manager to report-or ask him/her to invite staff members to each council meeting to explain their programs and answer your questions.
 - “What part should the council play in hiring staff?” The council hires the best person to administer the organization and then delegates all other staff hiring to the city manager. The council should not interview or evaluate staff. These are the city manager’s jobs.
 - “Shouldn’t staff have a part in the evaluation of the city manager?” No. The council hires the city manager and has the responsibility for evaluation. It would be very difficult for staff to remain objective when evaluating their “boss.”

The Council’s Relationship to Staff Can Be Tricky

Question: “As council members, a couple of us decided to attend a few staff meetings-mainly to show that we are interested in what goes on in the organization we govern. But we seemed to have stirred up a hornet’s nest because the city manager says it’s inappropriate for us to get involved directly with staff. Why can’t we do this?”

Answer: Nobody ever said that it was easy to be a good council member. Sometimes an issue comes along that reaffirms how hard it really is-like the question of a council member's relationship to staff.

On one hand, you're told you should get more involved because council members are responsible for the organization. But then you're told you shouldn't short-circuit the chain of command by bypassing your city manager when you go directly to staff.

The point is not that council members shouldn't have any relationship to staff. The point is that the staff/council relationship is so sensitive, council members have to be alert to problems, which can quickly grow out of this relationship.

Responsibility Chart for the City Manager and Council

The council team works best when everyone understands who's responsible for what. Some decisions can only be made by the council. Other decisions should be delegated to the city manager. Still others should be joint decisions by both the council and city manager.

The problem is, council teams don't always iron out who's responsible for what before they're confronted with a decision.

The items below are typical decisions your board team might have to make in the future. Here's your chance to assign responsibility before you face the issues. As a council/city manager team, discuss this list and decide how you would assign the responsibility for each decision. Label each item with one of the following:

- A = Administrator has complete authority to make the decision.
- I = Administrator has authority to act and then Inform the council.
- P = Administrator must seek Prior approval from the council to act.
- C = Only the Council may make the decision.

- 1) Decided where to deposit your organization's funds.
- 2) Discipline an employee who arrives at work intoxicated.
- 3) Send the Comptroller to a three-day leadership conference at your organization's expense and on work time.
- 4) Establish maintenance and appearance standards for building facilities and grounds.
- 5) Explore the possibility of a merger with another organization.
- 6) Purchase a large new phone system with budgeted funds.
- 7) Arrange for an audit of your organization's finances.
- 8) Decide which services/programs to cut to meet budget demands.
- 9) Retain a consultant to help staff set up a new computer system.
- 10) Retain legal counsel for organization.
- 11) Recruit a person for a department director position.

You may add more items to the list to iron out "who should be responsible for what."

Your Administrator/City Manager Fills These Management Functions:

- 1) **PLANNING.** Although the council makes long-range plans (2-10 years), the administrator is responsible for making short-term plans to fulfill the current year's budget and objectives. Some council members are tempted to tell the administrator what equipment to purchase. But if it is budgeted, the administrator along with the department head, should decide how to spend the money. It's the council's role to plan for the needs of the future years.
- 2) **ORGANIZING.** An administrator must organize an internal structure to help him or her deliver your organizations services effectively and efficiently. Frequently, council members want a say in what kinds of staff positions are created. For example, a council member might think your priority should be to hire a public relations person-yet the administrator may want to hire a business manager. As a manager, your administrator should be able to create the kinds of positions and internal structure he or she deems necessary. For this reason, Mississippi Annotated Code allows council to create or remove positions only upon recommendation of the city manager.
- 3) **STAFFING.** Your administrator is in charge of hiring and firing staff members. The council is in charge of hiring and firing the administrator. As a council member, you judge your administrator for performance of the entire organization-not of individual staff. Let your administrator assess the performance of individual staff members.
- 4) **DIRECTING AND LEADING.** An administrator motivates staff. He/She should inspire them, give them direction and communicate will with them. Although council members are leaders of the entire organization, they are not leaders of the staff. Your administrator directs and leads staff. As a council member, you direct and lead your organization through your administrator.
- 5) **CONTROLLING.** The administrator measures and corrects the activities of staff members and controls the spending of the current budget. The council controls how much is allocated for line items in the budget, such as "staff payroll." It's tempting for council members, when they see that something is not quite right, to jump in and try to control what goes on. For example-if expenses are too high, a member might want to order a reduction in staff or change the operations of a particular department. That would be wrong, however, because the administrator is in charge of controlling staff and how the current budget is spent.
The most important point for council members to learn is to stand back and give the administrator the opportunity to manage and fulfill the responsibilities of the administrator's role within your organization.

Who's Responsible-The Council or Administrator?

Here are some recommendations for who should be responsible for the various activities and decisions made by your organization...

AREA	COUNCIL	ADMINISTRATOR
Long-Term goals (more than 1 year)	Approves	Recommends and provides input
Short-Term goals (less than 1 year)	Monitors	Establishes and carries out
Day-To-Day Operations	No Rule	Makes all management decisions
Budget	Approves	Develops and recommends
Capital Purchases	Approves	Prepares Requests
Decisions on building, Renovation, leasing and Expansion	Makes decisions and Assumes responsibility	Recommends (could also sign contracts if given authority)
Supply Purchases	Establishes policy and Budget for supplies	Purchases according to council policy and maintains an adequate audit trail
Major Repairs	Approves	Obtains estimates and prepares recommendation
Minor Repairs	Policy should include amount that can be spent without council approval	Authorizes repairs up to prearranged amount
Emergency Repairs	Works with Administrator	Notifies Mayor and acts with concurrence from Mayor or council
Cleaning and Maintenance	No Role (oversight only)	Sets up Schedule
Fees	Adopts Policy	Develops Fee Schedule
Billing, Credit and Collections	Adopts Policy	Proposes policy and implements policy
Hiring of Staff	No Role	Approves all Hiring
Staff Deployment and Assignment	No Role	Establishes
Firing of Staff	No Role	Makes Final Termination Decisions
Staff Grievances	No Role	The Grievances stop at the administrator
Personnel Policies	Adopts	Recommends and administers
Staff Salaries	Allocates line item for salaries in budget	Approves salaries with recommendations from supervisory staff and per union contracts
Staff Evaluation	Evaluates only appointed positions	Evaluates all other staff

Yes, there will probably be some problems along the way, you have to expect them. But evaluate your administrator's performance as a manager by assessing what the entire organization has done. As long as you get what you want and need from your administrator, let the administrator do it his/her way.

Council Learns Not to "Second Guess" the Administrator

Several council members from Oklahoma were shocked when they each got a letter from a disgruntled person who had been served by their organization. "It was quite a surprise," says one council member. "We'd never heard any complaints about our administrator or organization before."

Her first reaction was similar to other board members: get the problem on the agenda for the next board meeting and hash it out. "It was a very delicate issue," she explains. "Here was what appeared to be a very valid complaint about our administrator and an appeal to us for help. At the same time, we've always placed full confidence in our administrator."

"We all learned a lot from that episode," the council member explains. "Council members should be sensitive to public appeals and complaints, but we should also give the administrator a chance to handle problems first."

"Council members have a right and responsibility to be informed about what goes on in the organization we're elected to govern, but we hired the administrator to make the management decisions and we should allow him/her to do that."

"Of course, the administrator makes mistakes once in a while, just as we all do. If the decisions are frequently bad, the administrator is subject to dismissal. Otherwise, we shouldn't be second-guessing everything he or she does."

Council members should be sensitive to public appeals and complaints. But they should also give the administrator a chance to handle the problem first.

A Temptation to Fix Things

There was recently an interesting situation that happened to a California council member whose educational background is in finance and accounting. After he was elected to council, he discovered what he thought was a weakness in the municipalities accounting system. So he promptly rolled up his sleeves and personally engineered some internal changes.

Now you can't blame the council member for wanting to correct the situation. These days, many council members are elected because of their technical skills. If you have some skills in finance, it's only natural that you would want to straighten things out, push the bookkeeper aside, and do it yourself.

In fact, your administrator might want to do the same thing! But if your organization already employs a bookkeeper, it's his or her job to run things right.

Good administrators give staff direction and then stand back to let them do the job. Employees should be given a chance to correct a problem once it's pointed out to them.

Also, the administrator, not council members, is ultimately responsible for correct and timely financial reports. Administrators should also be given the chance to correct problems within the organization.

Remember, the council hired an administrator to manage day-to-day activities and to fix things. If something in your organization looks like it needs fixing and you want to help, point it out to your administrator and say you'd be would be available as a volunteer if additional advice is needed. Ask for feedback on how the problem is being solved. But don't jump in and fix it yourself without being asked.

How Many Bosses Should Your Administrator Have

"There are six council members," an administrator told me recently, "and I feel like I have six different bosses!" "Council members are always on the phone telling me to do this or do that. One says I should wait to purchase a computer system and have the full board review it first. But another tells me to go ahead and buy it now while the price is right, without waiting for council approval."

Council members cannot act as individuals. They must speak with one voice so the administrator can have one boss, not six.

The Administrator is the Manager, Even in a Crisis

Sooner or later your council could find itself in the middle of a crisis, a building fire, a staff scandal, a liability lawsuit. When a crisis strikes, unwanted public attention is sure to follow on its heels. And just as quickly, council members will become the focus of public pressure to get the problem solved. The temptation for council members to take immediate action is strong.

But a crisis shouldn't suddenly change the way your council operates. It is not the time to make new policies in the midst of crisis. It is time to fall back on policies you already have and let them work. Council members should ask themselves, can the council really do anything about this situation by holding a clumsy meeting to try to make emergency decisions as a group?

What should the council do when a crisis strikes?

- Keep yourself informed from the right source, your City Manager. Of course there will be public pressure on the council to do something about the problem; this just means that the council members need to make sure that they are accurately informed about the issue so they can tell the public what's being done.
- Support your Administrator. Get questions out of the way at council meetings and then back the administrator during the crisis. Tell the administrator you appreciate the work being done to solve the problem and make sure the public sees the support.

- The administrator was hired to manage at all times, not just when things are going well. It doesn't make sense to pull that responsibility away. You need to support the administrator not give him or her more problems.
- Operate as a council not as individuals. Designate one person, probably the mayor, to be the media spokesperson on matters unrelated to personnel. When you speak to the public, voice the official council stand, not your own individual opinion. Council members can influence the public and help keep a crisis in hand or under control.

The Golden Rule of the Council/Administrator Team

Support of the administrator is the responsibility of the council. Communication is the responsibility of the Administrator.

Good relations between the Council and the Administrator can break down when you neglect this golden rule. It will help you to remember:

- Council Members support their administrators by letting them know what they want by providing direction.
- Council Members support their administrators by ensuring that money is available to carry out policies.
- Administrators carry out the council's plans; they're the managers of the organization.
- Administrators must provide feedback and recommendation for new actions so the council may know how things are going.

Support and Communication.... they're necessities for every municipality.

RULES OF PARLIAMENTARY PROCEDURE

Rules of procedure for individual governing bodies vary. However, most City councils have adopted Robert's Rules of Order Newly Revised, or similar parliamentary rules.

What is Parliamentary Procedure?

It is a set off rules for conduct at meetings that allows everyone to be heard and to make decisions without confusion.

Why is Parliamentary Procedure Important?

Because it's a time tested method of conducting business at meetings and public gatherings. It can be adapted to fit the needs of any organization. Today, Roberts's Rules of Order newly revised is the basic handbook of operation for most clubs, organizations, and other groups. So it's important that everyone know these basic rules.

Organizations using parliamentary procedure usually follow a fixed order of business. Below is a typical example:

- Call to Order.
- Roll Call of Members Present.
- Approval of Minutes of Last Meeting.
- Officer Reports
- Committee Reports
- Special Orders-Important business previously designated for consideration at this meeting.
- Unfinished business.
- New Business.
- Announcements
- Adjournment

The method used by members to express themselves is in the form of moving motions. A motion is a proposal that the entire membership take action or a stand on an issue. Individual members can:

- Call to Order.
- Second Motions.
- Debate Motions.
- Vote on Motions.

How are Motions Presented?

1. Obtaining the floor
 - a. Wait until the last speaker is finished.
 - b. Rise and address the Chairman by saying "Mr. Chairman or Mr. Mayor"
 - c. Wait until the Chairman recognizes you.
2. Make Your Motion.
 - a. Speak in a clear and concise manner.
 - b. Always state a motion affirmatively. Say, "I move that we..." rather than, "I move that we do not..."
 - c. Avoid personalities and stay on your subject.
3. Wait for someone to second your motion.
4. Another member will second your motion or the Chairman will call for a second.
5. If there is no second to your motion it is lost.
6. The Chairman states your motion.
 - a. The Chairman will say, "it has been moved and seconded that we..." Thus placing your motion before the membership for consideration and action.
 - b. The membership then either debates your motion, or may move directly to a vote.

- c. Once your motion is presented to the membership by the chairman it becomes “assembly property”, and cannot be changed by you without the consent of the members.
7. Expanding on Your Motion.
 - a. A time for you to speak in favor of your motion is at this point in time, rather than at the time you present it.
 - b. The mover is always allowed to speak first.
 - c. All comments and debate must be directed to the chairman.
 - d. Keep to the time limit for speaking that has been established.
 - e. The mover may speak again only after other speakers are finished, unless called upon by the Chairman.
 8. Putting the Question to the Membership.
 - a. The Chairman asks, “Are you ready to vote on the question?”
 - b. If there is no more discussion, a vote is taken.
 - c. On a motion to move the previous question may be adapted.
 9. Voting on a Motion.

The method to vote on any motion depends on the situation and the by-laws of policy of your organization. There are five methods used to vote by most organizations, they are:

 1. By Voice—The Chairman asks those in favor to say, “aye”, those opposed, “no”. Any member may move for an exact count.
 2. By Roll Call—Each member answers “yes” or “no” as his/her name is called. This method is used when a record of each person’s vote is required.
 3. By General Consent—When a motion is not likely to be opposed, the Chairman says, “If there is no objection...” The membership shows agreement by their silence, however if one member says, “I object”, the item must be put to a vote.
 4. By Division—This is a slight verification of a voice vote. It does not require a count unless the chairman so desires. Members raise their hands or stand.
 5. By Ballot—Members write their vote on a slip of a paper, this method is used when secrecy is desired.

ROBERT'S RULES OF ORDER SIMPLIFIED

A simplified description of Robert's Rules of Order appears in *Preparing for Takeoff*. Taken from Brian O'Connell's *The Board Member's Book*, it describes the motion; the second; the discussion, debate, and clarification; the vote; and a restatement of the motion. The next level of detail in Robert's Rules involves a situation in which the board may want to make some changes in the original motion before the vote. In the course of the discussion it may become obvious that the motion doesn't quite say what the board now has in mind. The following rules of order depict how a slightly more complicated scenario might unfold:

- The motion.
- The second.
- The chairperson restates the motion.
- Discussion, clarification, and debate.
- Someone moves that the original motion be amended, and another person seconds the idea. (At that point the maker and seconder of the original or main motion will usually agree to the amendment even though a vote on the amendment has not been taken. Technically, once a motion has been made and seconded, it involves the whole assembly, but if no one offers objection to the amendment, no vote is usually taken.)
- If the persons who moved and seconded the original motion do not agree to the amendment or if anyone else voices objection, there is discussion, clarification, and debate on the amendment itself.
- After the group has adequately considered the amendment, the chairperson restates the motion to amend, and the group votes on the amendment.
- Once the amendment has been accepted or rejected, the group returns its attention to the original motion.
- If the amendment passes, the main motion is now known as "the original motion as amended." If the amendment is defeated, the motion is simply the original motion.
- Debate then proceeds on the original motion. It could be amended again, in which case the new amendment would get informal or formal consideration.
- When the amendments have been disposed of, the board votes on the original motion (as amended, if that's the case). Although the amendment process complicates the motion process slightly, it is simply the group's way of deciding whether the original motion needed some changes before it reflected the combined view of what should be done.
- When the motion is brought to a vote, members may abstain from voting. However, those members should explain for the record why they wish to abstain. The most City reason for abstaining is that a potential conflict of interest exists. The inability of a member to reach a decision is generally not an acceptable reason for abstaining.
- If the main motion is defeated, the same basic proposal cannot be brought forward again at the same meeting. This is designed to keep the losers from filibustering by bringing the same motion up again and again. (There is an

exception. If one person who was on the winning side of the vote realizes that he or she may have made a mistake, such as misunderstanding what the motion called for, he or she can move for reconsideration, at which point the board decides whether to allow reconsideration.)

- The motion to “table” is often used improperly in an attempt to suppress a measure. You can, however, use this motion in the appropriate manner to your group’s advantage. The group may wish to lay aside discussion and action on a question temporarily until some other question is disposed of. You may do this by moving that the question be “tabled.” By so doing you retain the privilege of resuming consideration of the tabled question at any time.

Policy Guidelines for Council Procedure

- a. To avoid interruptions, members, when recognized, should indicate the course their remarks will follow and perhaps verbally, or otherwise, indicate they have concluded.
- b. Motions on the floor should not be modified by statements such as, “that’s all right” or “I’ll include that change.” Preferably, motions should be prepared in advance and should incorporate suggested changes prior to being made. Changes to a motion should be in the form of amendments.

Adopted from “Conducting Orderly Meetings,” Ralph E. Houseman, The Municipality, Feb. 1972.

- c. Committee chairmen should report committee actions and move adoption of recommendations, regardless of their position on the committee vote. The committee chairman may speak against the action during debate on the subject.
- d. Legislative action should be taken only by ordinance, resolution or bylaw. Unless otherwise specifically required by law, any action may be taken either by resolution or by motion. In matters of urgency, a resolution may be presented verbally in motion form together with instructions for later written preparation of the resolution.
- e. Whenever feasible, any member who intends to offer a resolution should arrange to have it prepared in writing by the municipal attorney and circulated with the agenda in advance of the meeting at which it is to be offered. Similarly, any member who intends to offer a motion should prepare the motion in writing and arrange to have it circulated with the agenda in advance of the meeting at which it is to be offered.
- f. Members offering motions, resolutions or ordinances should introduce them in the forms shown below:

MAIN MOTION

- 1) I MOVE _____

AMENDMENTS

- 2) I MOVE to amend the motion by inserting ____ between ____ and ____.
- 3) I MOVE to amend the motion by adding ____ after ____.
- 4) I MOVE to amend the motion by striking out ____.
- 5) I MOVE to amend the motion by striking out ____ and inserting ____.
- 6) I MOVE to amend by striking out the motion and substituting the following ____.
- 7) I MOVE that this motion be referred to the ____ committee (commission).

PREVIOUS QUESTION

- 8) I MOVE the previous question (2/3 vote) (stops debate and orders an immediate vote).

RECONSIDER

(In order same day motion is made or at next regular meeting)\
(Mover must have voted with majority)
(Not permitted in committee of the whole)

- 9) I MOVE to reconsider the vote by which ____ was voted. I voted with the majority.

AWARD OF CONTRACTS

- 10) I MOVE that the bid of ____ be approved for award, pending the signing of the contract and furnishing of required bonds, and that the city manager be authorized and directed to sign and the clerk to countersign the contract for and on behalf of the city.

INTRODUCTION OF ORDINANCE (FIRST READING)

- 11) I MOVE the introduction of an ordinance entitled (read from the agenda).

ADOPTION OF ORDINANCE (SECOND READING)

- 12) I MOVE the adoption of an ordinance entitled (read from the agenda).

ADOPTION OF RESOLUTION

- 13) I MOVE the adoption of a resolution entitled (read from the agenda).

CLAIMS

- 14) I MOVE that the (council) accept the recommendation of the (city) attorney and (deny) (pay) the claim of ____ in its entirety.

PLANNING

- 15) I MOVE that the (council) adopt the findings of the planning commission made in Resolution No. _____ and further move the introduction of an ordinance entitled (read from the agenda).
- 16) I MOVE that the (council) disapprove the findings of the planning commission made in Resolution No. _____ and deny the application for change of classification of _____.

PUBLIC HEARINGS

In their conduct of public business, governing bodies find it necessary or desirable to perform investigations into matters of concern to determine the need for legislation and what its nature should be if required. Investigations and hearings into the conduct or affairs of municipal officers are also sometimes undertaken at the direction of the governing body. This chapter describes the general procedures and legal powers and duties of governing bodies or their committees in conducting investigations and administrative reviews.

Public Hearings

One procedure frequently employed in investigating city affairs in preparation for final legislative or administrative action on matters of special concern is the public hearing. Of course, all meetings of the city governmental bodies must be open to the public unless the subject matter falls within one of the exemptions prescribed by the open meetings law. However, public hearings are specifically required by certain state statutes.

Except when constitutionally protected rights of specific individuals are involved or when the applicable statute imposes other requirements, public hearings are subject to no special rules of procedure. However, the presiding officer prior to commencement of the hearing should announce those Quasi-Judicial rules of etiquette and order, which shall govern the hearing. If time limits are to be imposed on appearances at the hearing, this fact should be stated in the notice to the public and also in any notice sent directly to interested persons. This notice procedure will allow those persons desiring to appear whose presentations might exceed their allotted time to prepare written statements or consolidate their presentations with other speakers.

If you, as a member of a governing body, are required to conduct a hearing or review matters relating to individual employees, officers or citizens, you should initially consult with the municipal attorney to determine whether constitutional rights may be involved or if the state or federal statutes or agency regulations impose requirements or restrictions on the conduct of the hearing. Failure to observe constitutional rights of citizens, employees or other persons may result in liability for damages or injury suffered by such persons.

When process is due, the following procedures may be applicable, although in certain cases less formal procedures may be sufficient.

1. A written statement of the reason for the proposed action informing the affected individual of the right to a timely and impartial hearing.
2. A hearing upon request in which:
 - (a) The individual may present arguments in person or by an attorney.

- (b) The individual is given an opportunity to face and question opposing witnesses, including the right to request the presiding officer to subpoena witnesses.
- 3. A decision based upon the evidence presented at the hearing and the statement of charges.
- 4. A brief written statement of the final determination together with a recitation of the reasons for the determination and the facts on which the decision maker relied.

EFFECTIVE GOVERNING

In a democracy the need to evaluate and balance all interests is a challenge and frustration facing most elected officials. City councils and village boards in Mississippi are no exception to this rule.

Decision-Making

The fundamental job of a governing body member is to make policy decisions for his or her municipality. Unless decisions are based on full, relevant and accurate information and with a clear objective in view, the results are likely to be mediocre at best and meaningless at worst. In fact, in view of the part-time, temporary involvement of most local governing body officials in Mississippi, the political pressures under which local decisions must be made and the frequent lack of up-to-date, accurate, verifiable information available to these decision-makers, the process has worked surprisingly well.

Decisions of local governing bodies generally fall into three categories: 1) those regarding projects or facilities; 2) those with respect to services, and 3) those relating to the need for regulations affecting the health, safety or welfare of the municipality's residents. See Wright, J. Ward, and Benson, Virginia, "Your Local Economy: Does City Hall Play a Role?", Nation's Cities, September 1972, p. 45.

The process of making decisions with respect to any of these three principal areas of municipal activity can be divided into six stages:

Need. The process whereby it is determined that something needs to be done. Such determination is usually based on an awareness of community conditions.

Solutions. The process of determining which government is responsible, what resources are available, what the scope of responsibility is, and the manner in which an answer to the problem should be formulated.

Projects. The development of plans for specific allocations of resources to specified agencies to undertake given actions for specified purposes.

Approval. The official act by which action is authorized and resources are allocated.

Administration. The action of management in issuing directives, supervising activities, reviewing results, and making required adjustments.

Evaluation. The process of reporting and reviewing, whereby the policy-makers may determine the success or failure of the programs, in whole or in part, in meeting the needs defined in the first stage."

Unfortunately, substantial impediments frequently exist which diminish effective

city council or village board involvement in all stages of a decision. These include, among others, the existence of semi-independent agencies financed and/or sanctioned by state and federal largess and laws which may have progressed to the fourth stage of the process before bringing a project to the council or board for consideration and approval. In addition, there may be a large time span over which projects or issues may extend, resulting in numerous changes in the composition of the decision-making body or a change in attitude of the citizenry or even a change in need for the project or service itself which can hamper effective decision-making.

Perhaps, in view of these impediments, governing body officials may have to console themselves with the satisfaction of having made informed and intelligent decisions after thorough study and deliberation even if in retrospect the particular project, service or rule fails to achieve its anticipated goal.

Data Gathering and Technical Assistance

Merely identifying stages in the normal evolution and denouement of a municipal project does not guarantee effective decision-making. Effective decision-making is the result of having sufficient data to provide the basis for making rational choices between alternative courses of action. Effective decision-making also requires a refining, sifting and winnowing of the issues and data, the creation of an atmosphere conducive to making decisions in an unhurried and judicious manner and the weighing of potential consequences of alternative decisions or courses of action. Finally, effective decision-making requires the creation of a local administrative system that will guarantee that decisions made by the governing body will be carried out as intended.

Gathering data or background information is generally the role of governing body members individually and collectively and of municipal departments and administrative heads.

Individually, council members can obtain data and background information on the need for specific projects, services or rules by reading the municipal code and charter and publications such as this; by receiving reports from the manager, department heads, boards, commissions and committees; by listening to their constituents and to citizens at public hearings; and by observing and viewing conditions in their own wards or districts.

Collectively, the council may wish to procure the advice of the municipal attorney; of bond counsel; of the municipal engineer or a consulting engineer on particular issues or projects. Information can also be obtained from state or federal agencies or associations.

Sometimes a special study committee of citizens and/or governing body members may be used to obtain background data on the need and desirability of a particular action by the governing body. In addition, a public hearing may be called for this purpose.

It should be kept in mind that the information gathering process is not in itself the solution. It is merely the initial step. The final decision rests with the members of the governing body, and a problem or need is seldom resolved merely by collecting facts and data. Indeed, it has been suggested that the practice of Congress and the state legislature of separating the public hearing part of the process from the decision-making part leads to more efficient and more effective governing body determinations.

MAKING IT WORK

The types of problems confronted by your board can sometimes seem so burdensome that you wonder why you ever got involved. Try to keep in mind that the conflicts and problems that you tackle are important to the community you serve. When you work out the problems as a group, you will make healthy decisions. Keep in mind, too, your commitment to the board, your colleagues' commitment, the importance of your contribution, and the importance of making sound decisions.

As your board tries to make the best possible decisions, use the following “rules of thumb” to help you get over the hurdles:

- **Separate the people from the problem.** You and your colleagues aren't questioning each other's good intentions or personal integrity. You are discussing options for making the best possible decisions. Don't think about what you may not like about the person sitting across the table from you. Instead think about what he or she is saying, about the points that person is trying to make. If a colleague seems to be attacking your integrity, try to get that person back on track by asking him or her to make the point.
- **Focus on mutual interests and shared goals.** When your board seems to have bogged down, sometimes it is helpful to step back and think about the goals you have set for it. Keep in mind that you all have agreed on these goals, that you do have mutual interests, and that you are all serving the same constituency. Remember what is important!
- **Invent options for mutual gain.** Is there a compromise with which everyone will feel satisfied? Think about all that has been said throughout the debate. Can the best aspects of everybody's ideas be incorporated into a plan? Ask your colleagues why a particular approach is not satisfactory and why other approaches are.
- **Be open, honest, and willing to listen.** Examine your own approach to dealing with conflict. Are you really listening to what your colleagues are saying? Are you thinking about the implications? Are you considering them? Don't be afraid to state your concerns. Be honest by revealing what you see as the options and by explaining what you see as shortcomings in the suggestions of others.

GUIDELINES FOR COUNCIL MEMBERS

Each Council member should work to establish a good relationship with other members. The success or failure of efforts may be dependent upon the degree of cooperation evident among the individual members of the Board.

Each member should keep in mind these important points:

- Show respect for another's viewpoint.
- Allow others adequate time to fully present their views before making comments.
- Be open and honest.
- Make new members welcome and help them become acquainted with their duties.
- Strive to minimize polarization and factions among members.
- Each Council member receives public input and citizen participation in City government by the following means:
 - **Reviewing Recommendations.** Council members receive information from Boards and the public on matters spanning a wide range of interests and needs. Board members review and make recommendations to City Council on matters within their scope of responsibility. They perform as a citizen's advisory arm of City Council, focusing attention on specific areas of the City. However, certain Boards may take final action in prescribed areas. These bodies give the citizenry an opportunity to voice their opinions on City programs and policies.
 - **Assisting with Goal Identification.** One primary responsibility of Council membership is to formulate City goals. What do people say they want in their City? How can this be translated into a set of compatible, consistent, long- and short-range City goals? Advisory groups, staff and citizens can help with the decision-making process, but remembering the distinction between wants and needs is a policy decision and therefore, ultimately rests with City Council.
 - **Representing General Interests.** The Council must be careful to represent general interests of the City, not special interest groups. Council members must work with the City Manager. They should not become directly involved in the administration or operation of City departments, and should not direct the administrative staff to initiate programs, conduct studies or establish official policy without

approval of the City Council as a whole. Members, however, are encouraged to review and comment on relevant department programs as they affect the community.

- **Holding Open Meetings.** All meetings of the Council must be open to the public pursuant to the open meetings law. The intent of the law is to ensure actions be taken openly and that deliberations be conducted openly. Furthermore, the Council must announce a time, place and date for holding any regular or special meetings. (See the section on Open Meetings and Open Records in this Manual. If you have questions or concerns, please contact the City Attorney.)
- **Participating.** Election to the City Council provides an opportunity for genuine public service. Although the specific duties of each Board vary widely, there are certain responsibilities City to all members. The following is a summary of important responsibilities that will assist in maximizing one's contribution to the City.
- **Understanding the role and scope of responsibility of the Council** may sometimes appear to be a daunting task with the sometimes conflicting goals of properly representing the City, being concerned with the entire community, keeping the lines of communication open, being conscious of your relationship to the rest of the City Council and City staff, and establishing a good relationship with other members.

But by being open and honest at all times, while being aware that, in the public's eye, you represent the City you serve, your ultimate contributions to policy decisions should express your sensitivity to the diverse viewpoints held in the City.

Council Members Code of Ethics

Adhere to the code of ethic for councils. It is included here for your information.

- I will be motivated primarily by an earnest desire to serve my municipality and the people of my community in the best way.
- I will endeavor to attend all council meetings.
- I will recognize that the expenditure of municipal funds is a public trust, and I will endeavor to see that all such funds shall be expended efficiently, economically and for the best interest of the municipality.
- I will not use the municipality or any part of a municipal program for my own personal advantage or for the advantage of my friends and family.

- I will do everything possible to maintain the integrity, confidence and dignity of the office of a council member.
- I will listen to what other members of the council and other individuals or groups may have to say before making final decisions.
- I will endeavor to avoid rancor and bitterness, to observe proper decorum and behavior, to encourage full and open discussions in all matters with my fellow members of the council, to treat them with respect and consideration and not withhold or conceal from them any information or matter in which they should be concerned.
- I will make no derogatory remarks, in or out of council meetings about members of the council or their opinions, but I reserve the right to make honest and respectful criticism.
- I will recognize that authority rests with the council in legal session and not with individual members of the council.
- I will abide by majority decisions of council once they are made and will accept and support them as long as I remain a member of the council.
- I will not discuss confidential business of the council in my home, on the street, or in my office, the place for such discussions being the council meeting or committee meeting thereof.
- I will endeavor to keep informed on all local, provincial and national developments of municipal significance.
- I will consider it unethical to pursue any procedure calculated to embarrass a fellow council member, a member of the municipal staff or another local government body.
- I will associate myself with members of other councils both personally and in conferences for the purpose of discussing municipal problems and co-operating in the solution of them.

Council Members Should Never

- Talk too much and listen too little.
- Publicly criticize a council decision that was voted on and passed by the majority of the council, but that you did not specifically support.
- Demonstrate to fellow council members that you have all the answers for every issue.
- Refuse to change your mind on any issue regardless of the evidence presented.

- Fail to read council packets and prepare for the council meetings.
- Divulge information from an executive council meeting.
- Refuse to compromise when decisions have stalemated.
- Ridicule past council members and the decisions made by the council before you became a member.
- Hold grudges about fellow council members when they do not agree with you.
- Try to dominate conversation at every council meeting.
- Resent the salary of the chief executive or staff because it is more than you or your spouse makes.
- Arrive late and leave early.
- Remind fellow council members “that it has always been this way in the past.”
- Appear at park sites or facilities giving orders to employees.
- Want the agency to be a haven for hiring friends and the politically deserving.
- Constantly criticize and question council policies and the executive decisions, and compulsively dissent on almost every issue.
- Do not try to know or understand other people who serve on the council with you. Team building begins by knowing your teammates.
- Have no interest in being educated on being a good council representative.

COUNCIL RELATIONS

1. Representing the Council. Council members cannot individually commit the City to positions without a vote or consent of the Council. Individual Council members should not insert themselves into or position the council on issues without a Council vote. It is inappropriate to commit to things that the whole Council may not be aware of or approve. Members should refer such matters to the administrative staff for review and later recommendations back to the Council.
2. Complaints from Citizens. When individual Council members receive citizen complaints, these should be referred to the Administration staff for investigation and resolution immediately. A vast majority of complaints concerns enforcement issues, which must ultimately be addressed by the staff anyway. Personal Council involvement in enforcement or interpretation of ordinance, policies or laws could subject the Council to later problems. The Administrative staff enforces zoning, ordinances, basic services, personnel matters, etc., and through the separation of duties the City Council establishes the rules by which the staff function.
3. More on Handling Complaints. Do not wait to bring up citizen complaints at Council meetings... these should be handled as quickly and routinely as possible by proper referral to staff. Do not “invite” complaints to be dealt with at meetings. Council will not appreciate a “staged” show, and the complainant may not appreciate the delay involved.
4. Media Relations. From time to time, the media (particularly the press) will ask for commentary about a City Council action or position on an issue. To the extent that the Council has taken an action or position, the Mayor will serve as spokesman unless the City Attorney has been designated by the Council President. In these situations, the “Council’s” position is to be disclosed, as opposed to individual opinions. Of course, individual opinions are individual opinions and may not express the opinion of the Council as a whole.
5. Approval of Minutes. Council minutes are considered “action minutes”. They convey a brief summary of discussion and action taken on items of business. They do not contain lengthy discourse from testimony given or all of this would be expensive, time consuming, and unnecessary. Spelling and grammar errors should only be brought to the Clerk’s attention outside of the meeting.
6. Ordinance/Resolution Preparation. The City Administrative staff and/or the City Attorney prepare all ordinances and resolutions for Council consideration. Council’s concern in review of such legal documents should be whether or not they adequately convey the “substance” desired. The legal format of such instruments, code section numbering, etc. is rightfully within the City Attorney’s purview...not the Council’s. Ordinance

preparation is the City Attorney's job. They should not be prepared at the meeting by the Council.

7. Private Disputes. On occasion, individual City residents or neighborhoods will come forth with problems of a purely private nature. These typically include nuisance complaints, work hours for contractors, boundary line disputes, fence problems, etc. The City should not get involved. Intercession in such matters will needlessly consume time and taxpayers' dollars and could potentially expose the City to liability. If you are not clear whether a reported "problem" is properly within the City's jurisdiction, the best thing to do is ask the staff for a determination and ask that they report back to the Council.
8. Policing Problems. It is the Council's responsibility to police and correct any problems among Council members. Council should not expect the Administration to do this for them.

CITY COUNCIL/CITY MANAGER AND STAFF RELATIONS

1. Everybody's Equal. All Council members will receive the same information about a matter... particularly as it relates to business items for your consideration as a body. No one will receive different or "special" information that would tend to put one Councilperson at an advantage over the others. Staff reports, per se, will be prepared for the entire Council to avoid such problems.
2. Favoritism. We all know that individual Council members may have more of an interest in some departmental functions than others. However, that should not give cause for staff to show special deference to certain Council members. Every Council member is to be treated equally; no favoritism is to be demonstrated. Be cooperative and responsive, but do not play favorites.
3. Lobbying Council Members. Individual Council members are not to be lobbied by Department heads for support of their projects, budget requests, etc. Department heads work for the City Manager, and it is he/she that the Department heads or staff must lobby. Their programs must stand on its merits, as opposed to their success in lobbying and lining up Council votes. The City has a chain of command and must adhere to it.
4. Council Orders. As the Municipal Code requires, no Council member is to individually "order" the City Manager, Department Heads, and others to do anything. Only a majority of the council may instruct the City Manager to do something.
5. Use of Resources. Staff resources are limited. Those resources the City has are fully devoted to carrying out Council-determined priorities and programs. There are no resources available to pursue individual Council members' special requests. Resources will be used as a matter of establishing a proper relationship with the entire Council. There will be a number of occasions when a Councilperson will call or request information. To the extent that it is available, the information is to be furnished. However, staff is not to launch into a special research effort that could divert limited resources from working on the priorities of the entire Council.
6. Incomplete Staff Work. There are always a number of proposals for various projects under consideration and review by staff before presentation to the City Council for a decision. While these matters are "in process" at the

staff level, it is inappropriate for the staff to “consult” with individual Council members on their “preference” for possible recommendations.

7. Council Member Involvement in Negotiation Meetings. At any one time, staff can be involved in various meetings with citizens, consultants, unions, prospective developers, etc. The subject matter runs the gamut from complaints to researching Council reports, possible development scenarios, and the like. The City Council hires staff to perform these functions, and they have repeatedly reaffirmed this position. There may be a few situations that would call for meetings where a designated Council member and a staff member would both be involved. These situations will be few, and the entire Board will/should formally authorize this approach. Otherwise, Council intercession in such staff meetings and negotiations is inappropriate.
8. Office Visits. Council members are welcome to frequent City Hall. Usually, these visits will be for business matters (to ask a question, forward a complaint, etc.). “Social” visits will be made from time to time. These are fine. However, “socializing” is discouraged to the extent that it interferes with staff’s schedule or disrupts normal staff activities and workflow. For the Council members: do not disturb or demand the attention of the entire office staff. Likewise, the administrative staff should not let this happen.
9. More on Visitations. It is not appropriate for Council members or board/committee member to assume a “staff role” while you are in City Hall. Staff has a proper role, and elected officials have a proper role. Please do not, as a Council member, answer telephones, work behind the counter, review plans with developers and contractors, respond to inquiries or complaints, or try to operate as a “staffer”.
10. City Manager Contact. The Council member’s primary contact is the City Manager. Questions, requests for information, etc. should be made through him/her, not individual Department Heads or other staff people. There are good reasons for this approach: the City Manager will then know what is going on, and he/she properly can determine which department(s) should become involved. In addition, it is a good way for the City Manager to assess the responsiveness and effectiveness of the departments. A further advantage is that many of the issues addressed in these guidelines will not become problems for the City Manager or Council.
11. Personnel Complaints. As a Council member, you may receive complaints about City personnel. These complaints, however severe they may or may not seem, should be turned over to the City to investigate and resolve. In some cases, disciplinary action may be required, and protection of the City rights and employees’ rights is a paramount consideration in dealing with employee complaints. The City Manager is the City’s Personnel Officer, so please turn over any employee complaint to him/her for internal investigation and disposition.



OPEN MEETINGS AND OPEN RECORDS

The following information has been included to help guide all City officials and in their duties to the public in creating an open government and informed electorate. This manual is distributed to provide guidance with respect to compliance with open meetings and open records laws. Both areas of law have been the source of much litigation and opinions of the Attorney General, and therefore, the application of the laws can be quite fact-based and complicated.

Please be aware that e-mail received and sent and instant messaging that pertains to City and Council business is a public record and a hard copy should be filed with the City Clerk, or the e-mail should be forwarded or copied to the City Clerk's e-mail address.

In addition, please be aware that online chats, instant messaging and forwarded e-mails involving other members of the Council are likely to be viewed identically as the use of the telephone, and therefore, the same concerns about conducting meetings by walking quorums that can put the City and Council members at risk of violating the open meetings law may apply. Please do not construe this as a prohibition of these kinds of communications, however. These comments are provided for the purpose of informing members of the precautions that may be appropriate in certain situations as they arise.

Please review this guidance and if you have any questions, concerns or you wish to review additional information on Open Meetings and Open Records laws, please contact the City Attorney. Therefore, if you have a question regarding the propriety of a contemplated action or practice with respect to the application of these laws, please do not hesitate to make a request for a legal opinion. In addition, although most "infractions" of the laws and their application may appear minor at the time, the violation of these laws can result in prosecution and possible other costs and remedies, including under some circumstances, the payment of attorney fees.



OPEN RECORDS LAW

The context in which your official duties relate to the open records laws is somewhat limited. Basically, all governmental records are presumed to be open to the public, and access to those records may not lawfully be denied to persons asking for such access, unless the records custodian can show the proper exceptions to the law. Moreover, records are defined very broadly, and they are much more than simply the agendas and meeting minutes of commissions, boards, and the Council.

Fortunately, no member of a commission, board, or the City Council needs to concern him or herself with the rules for determining whether records under an open records request need to be turned over to the public. Law assigns the City Clerk as the official records custodian for all commissions, boards, and the Council. The City Clerk knows the proper procedures to be followed in determining which records have to be disclosed upon request, and which records may lawfully be denied to the public.

Where all members of commissions, boards, and the City Council need to be concerned with the open records law is at the front end of the records access question, rather than at the back end. You, as members of these governmental bodies, need to be aware that you may be held responsible for seeing to it that all public records are placed on file with the City Clerk.

And since public records are not simply written communications generated by the governmental body itself, it would always be a wise practice to have placed on file with the City Clerk all written communications to you, whether they are letters, reports, or memos. (If, however, these documents were generated by city administration, you can rely on the fact that they are already on file with the City Clerk, since the City Clerk is also the record custodian for city administration.) In addition to all written communications, recorded communications also are public records, as are computer files and fax documents.

Although the governing body, whether it is the Council, a commission, or a board, is the authority responsible for turning over all public records to the records custodian, the individual member in each of these bodies presumed to have the primary responsibility for compliance with the law is the presiding officer of each body. Therefore, if communications that are records come to a governing body as a whole, individual member should look to their chair or president to fulfill the responsibility for filing these records with the City Clerk. The responsibility becomes an individual one, however, if a record is given to only one member of the body.

The following examples are intended to illustrate how the open records law would apply to you and your duties as a public official or board member:

- a. You are stopped on the street by a citizen who wants to talk to you about how a particular item on an upcoming agenda should be decided. To remind yourself of the concerns and the conversation, you jot down some notes for your own personal use. Are these notes a public record that needs to be filed with the City Clerk? No. Personal notes used only by you are not public records and there is no public right of access to them. However, if you pass along your notes to other members of your body, they then have become public records and need to be filed with the City Clerk.
- b. You are stopped on the street by a citizen who wants to discuss how you should decide a particular item on an upcoming agenda. A few days later, the same person follows up with a letter sent to the entire board, of which you are a member, but you are not the presiding officer. Is the letter a public record? Yes. Do you

- have to file it with the City Clerk? No. Does the presiding officer need to file it with the City Clerk? Yes. Will it hurt anything for you to file it as well? No.
- c. You received a letter apparently addressed only to you that is urging you to vote or take action in a particular manner. No agenda has been formally made that encompasses the action being requested, but it is an action you are lawfully empowered to make and it is foreseeable that at some time in the future, you might be discussing the matter. You do not know whether anyone else in your body received the same letter. Is this a public record? Yes. Do you need to do something with the letter? Yes. You have two options. The first is to share the letter with the other members of your body by mailing them copies or by giving them copies at the next meeting of your governmental body. The second option is to file the letter with the City Clerk. Under the first option, the presiding officer would ultimately be responsible for filing the record. Under the second, you are responsible for filing the record.
 - d. Someone calls your home answering machine and leaves a recorded message. Is this a public record? No.
 - e. Someone sends you a fax on your company's fax machine relating to your duties to the City. Is this a public record? Yes.
 - f. Your governing body meets in a properly noticed and convened closed session. Are the minutes of the closed session a public record that must be filed with the City Clerk? Yes.
 - g. Your board wants the cable TV people to come and videotape your meeting so members not in attendance can view the meeting at a later date. Is this videotape a public record? Yes. What if the cable TV people record a meeting that has nothing to do with city government? Is this a public record? No.
 - h. One final word of caution, since you are not charged with making the determination of what records are actually released to the public under the law, it would be wise not to assume that all records placed on file are necessarily available as public information. It is the records custodian's responsibility to make that determination, and to make the appropriate information public, if requested. The rules for making these determinations are beyond the scope of this memo.

OPEN MEETINGS LAW

Your individual responsibilities under the open meetings law are more complicated and more varied than those under the open records law. These responsibilities relate to conducting governmental business in the open so that the public knows what is being discussed, deliberated, decided, by whom, when, where and why. The legislature has incorporated the policy of openness into the legislation and has codified the notion that this law, like the open records law, will be liberally construed in favor of openness, rather than in favor of the government's other concerns for efficiency, expediency, or lack of controversy. The court decisions and the Attorney General opinions relating to the open meetings law have stretched the meaning and application of the law beyond the words of the statutes, and the law has been rewritten to broaden its application to more circumstances, rather than fewer.

Put simply, the law requires that all business of governing bodies be conducted at meetings that have been properly noticed to the public and the media, and that the notice sets forth in detail the items of business to be discussed or decided, and when the meeting will occur, and where the meeting will be held, and that the place of the meeting must be reasonably accessible to all members of the public wishing to attend. These meetings are required to be in open session, unless the proper prior notice of a closed session has been posted and stated at the meeting, and unless the legally authorized exception to openness has been met. Penalties for violation of the law can range from prosecution by the District Attorney, fines, and costs, to some other remedies that may include voiding the action taken contrary to the open meetings law, injunctions, declaratory judgments, and possibly attorney's fees.

Unfortunately, the law has been the source of much litigation and many opinions of the Attorney General, so as with the open records law, if you do not believe you know whether a contemplated action or practice would be in violation of the open meetings law, please do not hesitate to ask for a legal opinion, since the law's application is always to individual facts in particular circumstances, and the duty to obey the law is an individual duty of each and every city official who is a member of a board, commission, or the Council.

The following examples are intended to illustrate the application of the open meetings law to particular circumstances to help you to decide whether your contemplated actions would be in compliance with the law. However, if you are ever in doubt, please seek a legal opinion.

Public Notice

Taking action at a meeting that has not been properly noticed is a violation of the open meetings law, and these violations can be found against individual members who took action, even though they did not have any part in posting notice of the meeting. Therefore, it is important that all members of all governing bodies know the requirements of meeting notices.

Following standard procedures for giving public notice is the best defense against violating the open meetings law on the grounds that inadequate public notice has been given. The standard procedure for giving notice of a meeting involves writing the agenda in a manner that lists the time and place of the meeting, and the items of business in enough detail to give the public an idea of what will occur at the meeting. This detail should deal with all of the following, when applicable:

- a. Will there be a public hearing?
- b. Is there an item of business that will only be discussed, but no decision will be made?
- c. Will a decision of some sort be made?
- d. If a decision is made, will it be in the form of a recommendation, or an actual, final decision of the body that will not be referred on to another body for a final decision?

- e. Is there going to be a closed session, and if so, what is the specific statutory exemption that authorizes such a closed session, and what will the discussion in closed session be about?

The City Clerk's standard procedure for giving required notice includes:

- a. Supply the agenda to the City Clerk by Monday morning the week before your meeting so it can be published.
- b. Supply the agenda to the other official newspaper of the City.
- c. Post copies of the agenda at City Hall, the library, and the Post Office at the same time that the agenda is posted at the meeting place.

Unfortunately, circumstances sometimes arise that make it impossible to conduct the business of the government and to comply with the standard procedures for providing notice. The following examples will illustrate what to do under those circumstances.

- a. You are the presiding officer of a governmental body and you find out that an emergency item of business needs to be acted upon at your next meeting, but the agenda has already been published and the meeting notices have already been posted. What do you do? You write an amended agenda that must be posted at least 24 hours in advance of the meeting. You also have copies of the amended agenda available to the public at the start of the meeting.
- b. You are the presiding officer and you don't find out about the emergency item until after it is too late to comply with the 24-hour meeting notice requirement, but the item is so urgent, and you can show good cause why it has to be acted upon immediately without another 24-hour delay to post notice of another meeting. What do you do? Under these circumstances, which are quite rare, you can still act on the emergency item if you follow the amended agenda procedures listed above, and if you can provide the required notice to the newspapers and to the public a minimum of 2 hours in advance of the meeting.
- c. You are the presiding officer and an item of business comes to your body through discussions that may be straying from the agenda. It seems to be logical to pursue the new area of discussion. Do you allow the discussion to continue, even though it does not fit the agenda? In almost all cases, no. It is the presiding officer who will be presumed to be responsible for keeping the discussion and business of the body on track with the public notice and agenda. Even if no real harm comes of the discussion because no immediate decision is being made and the discussion will likely continue at a later meeting with proper notice, it is still possible that the presiding officer may be found to be in violation of the open meetings law. And, if a vote is taken, anyone participating in the decision may also be found to be violating the open meetings law, and the action taken may be voided as well.
- d. However, there is an exception to this rule if it falls within a legitimate emergency that could not wait 24 hours for proper notice as listed under 1 above, and if the presiding officer did not know about the emergency at least 2 hours before the meeting, so the procedures under 2 above could not be followed. The probability of this exception becoming anything but extremely rare is quite small.
- e. You are a member of the body and the discussion has obviously strayed from the agenda and the lawful business of your body at the otherwise properly noticed

- meeting. How do you protect yourself from any allegations that you have participated in a violation of the open meetings law? You call for a point of order and state that the discussion is not proper to pursue at this time, given that it is not public noticed and not on the agenda. If order is not established by the presiding officer after you have taken this step, and if the presiding officer has not established the rare exception that would allow the urgent item to continue to be pursued, then you should not participate by making any motions or seconds on the item, and it would be prudent to abstain from any vote.
- f. You are a member of the body that is about to consider whether to go into a previously noticed closed session. You note that the presiding officer has not stated at the meeting the statutory authority allowing a closed session, and the presiding officer also has not stated with some specificity the subject matter of the contemplated closed session. What do you do prior to a vote on a motion to go into closed session? You point out to the presiding officer that the above stated requirements have not been met, and ask the presiding officer to announce the authority and the reason for the closed session prior to a vote on the motion.
 - g. You are a member of a body that votes to go into closed session, but no notice has been made, no emergency exception can be shown, and no announcement of the authority and the subject matter has been made. You vote not to go into closed session, but a majority of the members vote to go to closed session. What do you do? You are not lawfully required to leave the meeting to preserve your defense that you have not violated the law. You have established your defense by voting against the closed session, and you can maintain your defense if you do not participate in any decision made in closed session. However, it would be in your interest to state during the open session your reasons for your opposition to the closed session so it can be recorded in the minutes.

Public Access

Whether sufficient public access is provided for meetings of governing bodies should usually not be an issue, since most meetings are held either at the public library or the public works building or at another pre-established city-owned or city-controlled building that, under most circumstances, should meet the reasonable access requirements of the law.

However, there are times when meeting where you usually hold your meetings may be a problem under open meetings law. These situations are quite unlikely, but you need to be aware of them. The first situation may be a case where a particularly large amount of public interest is likely and foreseeable by the presiding officer, and this public interest might generate attendance at the meeting that could not be accommodated by the usual meeting place. If such a circumstance is foreseeable, it is fully possible to move the meeting to another, larger location and still comply with the law if it is done no later than two hours prior to the meeting, and proper notice to the public and media has been made, and if the previously noticed meeting location is posted with a notice of the new location.

The second situation where accessibility difficulties may occur is when someone inadvertently neglects to make sure a public entrance to the building where the meeting is occurring is kept unlocked at all times. This may become an issue if the building used is open for other functions at the start of your meeting, but it closes

for those functions prior to the end of your meeting, such as the library. The presiding officer should always make sure that the entrance to the building used for the meeting is left unlocked throughout the entire meeting.

Other situations may sometimes arise that you may need to avoid if you wish not to be in violation for participating in an otherwise properly noticed meeting, if it can be shown that no reasonable access has been provided to the public. One such situation would be moving the normal meeting place to a place located outside the City of Gautier. Meeting in a different municipality, or in a different county, would be extremely difficult to justify under the open meetings law reasonable access provisions. There may be some rare, narrow circumstances, such as a retreat, to justify moving the meeting from the City, but no presiding officer of any governmental body should make such a decision on meeting place without seeking a legal opinion.

In addition, moving the meeting location to a private building or a private home is also very risky business under the reasonable public access requirements of the law. There is an Attorney General opinion that exists on the question of a town board meeting at a private home. The reasoning in that opinion was such that many town boards lack adequate public facilities for meetings, and under those circumstances, if proper notice is made, and if an open invitation to enter the home is extended to all members of the public during all times that the meeting is in session, the meeting would probably not be in violation of the law. However, he went on to state that these meeting places need to be the exception, rather than the rule, and that public policy requires that public meetings be held in publicly controlled buildings whenever possible.

What is a Meeting?

The largest area of litigation and Attorney General Opinions center on the question of what constitutes a meeting, which triggers all of the requirements of the open meetings law. The courts and the legislature have dealt with this area of the law and have broadened over time the definition of a meeting to include situations that constitute a meeting that are not intuitively obvious to most casual observers. Therefore, the question of what constitutes a meeting is one that should be uppermost in the minds of all members of governing bodies within the City, because this area is the most likely area to bring about allegations, whether warranted or not, of city officials violating the open meetings law.

The law presumes that if half of the members of a governing body are present, they are at a meeting, unless it is a purely chance event that they are in the same place at the same time, or unless it is a social gathering and no business of the body is being discussed. However, the legislature has declined to state precisely how many members it takes for their presence to be a meeting. And the courts have found that under the right circumstances, it only takes two members for there to be a meeting. And the courts have found that they do not have to be physically in each other's presence. The telephone can serve as the link that constitutes a meeting.

The courts have found that walking quorums exist. This is the situation where one member talks to another member about their body's business. Then one of those members talks to a third member. Only one of these persons knows that he or she has talked to two others about the item of business. The other two do not know that all three members have discussed the business. However, this sort of activity can be found to be a walking quorum and a violation of the open meetings law by all three members.

The courts have also found negative quorums, who constitute a meeting for purposes of open meetings law. A negative quorum exists when members have discussed an item of business and reached a consensus that they will vote against a particular measure, and that they have enough power together to prevent that measure from passing. This negative quorum effect can occur whenever a 2/3 or 3/4 vote of a five-member body is needed and two of the members have discussed the item and reached a consensus to vote against it. The danger of a negative quorum is the most prevalent when decisions are being made by the Council that require a majority for passage.

Therefore, because of the concepts of walking quorums and negative quorums, the "rule of thumb" that no violation of the law will occur if member A only talks to member B can be dangerous, because member A doesn't know that member B is also going to or already has talked to member C, and even if member B only talks to member A, it may be about an item of business requiring a vote that can be blocked by both A and B voting no to the measure.

And finally, the courts have found that meetings in violation of the open meetings law have occurred even when the members have not spoken to each other. This violation can occur if a quorum of one body attends the meeting of another body simply for the purpose of gathering information to use later in its own decisions.

Conclusion

I hope that this guidance will prove useful as you carry out your duties as an elected or appointed member of a governing body of the City of Gautier. Because the law presumes that persons subject to it know the law, and intent to violate the open meetings or open records laws does not have to be shown for it to be enforced, I hope you will accept these comments in the spirit with which they were intended by me. I want all city officials to be informed to the fullest extent possible so they may function in their roles without concern over possible negative repercussions that may result, even though their actions are well intended.