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City of Gunnison



City Council Handbook



photo provided by Matt Dorf

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CHAPTER 1: INTRODUCTION TO CITY OF GUNNISON GOVERNMENT

The City of Gunnison is a Home Rule Municipality

Municipal “Home Rule” is a form of government under the control of local citizens through their elected officials rather than the State government. Municipalities in Colorado can be Home Rule or Statutory. Statutory municipalities have only the powers expressly given to them by the State of Colorado Constitution and state statutes. Home Rule municipalities generally have more power on a local level. As the official guide for the City, all City Councilors must be familiar with and comply with the provisions of the Gunnison Municipal Home Rule Charter.

The City of Gunnison Municipal Home Rule Charter (HRC) is akin to a constitution for the City. It defines the organizational forms, and the powers and duties of City elected officers, City staff and other governmental functions. The Gunnison Charter was approved by the voters on July 10, 1962. The laws, rules and regulations that guide the City’s government are included in the City Charter and the City Municipal Code. The City Charter is found as Chapter One of the Gunnison Municipal Code Book. However, the City Code can be amended by City Council through the adoption of ordinances but the City Charter can only be amended by a vote of the qualified electors of the City.

City Councilor Eligibility for Office

City Councilors must be citizens of the United States, have attained the age of twenty-one years, must have been a resident of the City for at least one year immediately preceding the last day for filing the original petition for such office or preceding the time of appointment to fill a vacancy, and remain so during their term of office. No Councilor shall be eligible for office if they are in default to the City. The Council term shall be deemed vacant if the default is not eliminated within thirty days after written notice thereof by the Council or if the Councilor in good faith is contesting the liability for such default. (HRC 4.1).

City Council Role and Responsibilities

City Councilors are the policy makers of the City (HRC 3.1). The City Council has the authority to approve laws, regulations and policies that guide City Government. The City Council also serves as the Local Liquor Licensing Authority (LLA) and the Local Marijuana Licensing Authority (LMA).

Councilors also serve as City representatives on the Boards and Commissions of several internal and external organizations

The City Council appoints the City Manager, City Attorney and Municipal Court Judge. These positions serve at the will of the City Council. The City Manager is a City employee and has an employment agreement with the City which specifies terms of employment, including an annual performance evaluation by the City Council. The City Attorney has a contract with the City which includes compensation rates and outlines the duties of the City Attorney.

If a City Councilor wishes to attend a meeting related to City business, and is acting as a representative of the City, the Councilor shall obtain approval of the Council prior to the meeting. As a representative of the Council, the Councilor shall report back to the entire Council regarding the meeting. The report shall be given at a Regular Session meeting held in open session.

It is the role of Councilors to forward concerns and complaints on behalf of their constituents. It is not, however, appropriate to direct Staff to solve a problem without a majority opinion from Council. Citizen complaints shall be referred to the appropriate Department Head or the City Manager. Staff or the City Manager is responsible for making sure the Councilor knows how the complaint was resolved.

Council-Manager Form of Government and City Council – City Manager Relationship.

The City of Gunnison has a Council-Manager form of government. (HRC 1.3) This means the Council establishes priorities and policies and the City Manager implements the Council's directives. The City Manager is appointed by City Council and serves at the pleasure of the majority of Council. The City Manager is the chief executive officer of the City and is responsible for carrying out the Council's directives and administering the day-to-day operations of the City. (HRC 3.7, HRC 3.8) The City Council communicates these directives to the City Manager primarily through the detailed development of the annual City Budget. The adopted City Budget is the guiding document for the planning, development and implementation of Council's policy directives. The City Manager then directs Staff. City Council should always avoid managing City employees. Councilors shall not give orders to a subordinate of the City Manager. Questions to City staff should be directed through the senior City Staff/Department Head or directed to the City Manager. The City Manager should be copied on any request or communication made to Departments Heads or City Attorney by a City Councilor. Councilors should not set up meetings with Department Heads without the knowledge of the City Manager.

City Council – City Attorney Relationship

The City Attorney, appointed by City Council, is the legal advisor for the Council, the City Manager and Department Management Staff (HRC3.14). The general legal responsibilities of the City Attorney include:

- Provide legal assistance necessary for the formulation and implementation of legislative policy;
- Represent the City's interests, as determined by the City Council, in litigation, administrative hearings, negotiations and similar proceedings;
- Prepare ordinances, resolutions, contracts and other legal documents;
- Act as the City's Prosecuting Attorney for Municipal Court proceedings; and
- Keep the City Council and staff apprised of legislation and court rulings affecting the legal interest of the City.

General Powers of the City Council

It's important that the City Council act as a body. No member of the Council has any more power than other member of the Council. Policy and decisions are established by at least a majority vote of the Council. Discussion, by civilly stating differing viewpoints, opinions, and ideas, is the basis of good government. While individual members of the Council may disagree with decisions of the majority of Council, a decision of the majority binds the Council to a course of action as a single governing body.

Duties of the Mayor as Chair of Meetings

The Mayor and Mayor Pro Tem (acting in the Mayor's absence), have additional ceremonial and administrative responsibilities such as signing certain official documents and chairing meetings; however, all members of City Council are equal regarding their vote in the establishment of policies. The Mayor's Duties include the following (HRC 3.5):

- The Mayor opens all meetings at the appointed time and calls the meeting to order;
- The Mayor presides at all meetings of the Council;
- Announces the business coming before Council in accordance with the agenda;
- Control the proceedings of the meeting and recognize Councilors, Staff and members of the Public who are entitled to the floor;
- State or cause to be stated all motions and put to vote all questions that legitimately come before Council. Although not prohibited, the Mayor generally does not propose a motion;
- Enforces Council's rules relating to debate, order and decorum at meetings; and
- Adjourns the meeting.

The Mayor does not possess any power of veto and the Mayor votes on matters in the same manner as other Councilors (HRC 3.5). In the event of absence or disability of both the Mayor and Mayor Pro Tem, the remaining Councilors may designate another of its members to serve as Acting Mayor during such absence or disability (HRC 3.4).

The Mayor is the official head of the City for all ceremonial purposes. Ceremonial purposes includes the issuing of City Proclamations.

Role of City Council on Boards and Committees

City Councilors are appointed to serve on various internal and external task forces, commissions, boards and committees. Most of the appointments take place every two years at the Council reorganizational meeting that occurs the first Monday following the Regular City Election held the second Tuesday in May of odd numbered years. Councilors serve both as voting members on several boards and serve as non-voting ex-officio members on several other boards such as, but not limited to: Rural Transportation Authority (RTA), Gunnison Valley Regional Housing Authority (GVRHA), Gunnison Chamber of Commerce Advisory Board, Gunnison Trails Commission, the City of Gunnison Planning and Zoning Commission, and the Region 10 League for Economic Assistance and Planning.

Councilors that serve on external boards and committees are expected to report to the full Council during Council meetings about the activities of the board or committee on which they serve. The reports may be either verbal or written. Councilors may also be appointed to short-term committees for special projects as they develop.

Role of City Council as the Local Liquor Licensing Authority (LLA) and the Local Marijuana Licensing Authority. (LMA)

The City Council acts in the capacity of the Local Liquor Licensing Authority (LLA) and the Local Marijuana Licensing Authority (LMA) for the City of Gunnison. Both Liquor and Marijuana Licenses in Colorado must be approved by both the State Liquor/Marijuana Authority and the local jurisdiction. All new liquor and marijuana licenses must be reviewed and approved by the City Council. Transfers and renewals of Liquor license/Marijuana licenses are approved administratively by the City Clerk as long as no violations have occurred and no complaints have been made against the license holder. If complaints are filed, renewals must be considered by the LLA or LMA.

[This section will be completed more fully once LMA rules and regulations are adopted by Council].

Elections/Initiatives and Referendums

Elections: Per the City Charter, Regular municipal elections are held on the second Tuesday in May of odd-numbered years. (HRC 2.4) Councilors are voted on at this time and the City may also submit other questions to the citizens on the ballot. Elections are non-partisan (HRC2.2B). Elections are typically held by mail-ballot. A special election

may be held, as needed, when called by the Council. The Council has the power to submit an ordinance or question to a vote of the people at a regular or special election.

Initiative: The electors of the City have the power, by the State and City initiative process, to propose an ordinance to the Council (HRC 6.9). In the event Council fails to adopt an ordinance proposed by initiative, the question must be submitted to the voters.

Referendum: The electors of the City also have the power, through referendum, to require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal a reconsidered ordinance, the ordinance will be referred to a vote of the people (HRC 6.9 through 6.12).

CHAPTER 2: CITY COUNCIL MEETINGS PROCEDURES

City Council Meetings Decorum and Conduct

In order to make the best decisions for the citizens of the City of Gunnison, Council wants to hear from all constituents. To that end, the following rules are set to facilitate that communication during Council meetings.

- Civility towards all meeting participants, including Council, City Staff and the public, is to be observed at all times.
- Comments should be brief, concise and refer only to the matter being discussed.
- Comments should be limited to no more than 5 minutes unless allowed by Council via the Mayor.
- Councilor comments shall only be on the subject under consideration and a Councilor shall speak only once on the question until all other members of Council who wish to speak have had the opportunity to do so.
- Comments should not be redundant to those previously presented to Council.
- Comments should be courteous, civil and no profanity used at any time.
- Harassment of any meeting participant, including Council, City Staff, and citizens, shall not be tolerated.
- The speaker will not be allowed to continue if these protocols are not followed.

Regular Session, Work Session, Special Session Meetings.

All Council meetings are open to the public (HRC 5.4) except under specific circumstances outlined in Colorado State Statutes in the “Open Meetings or Sunshine Law” (C.R.S. 24-6-401 et. seq.).

The Council may only make decisions at Regular, Special or emergency meetings. A Council quorum, of at least three Councilors, is required to make any decisions. If a quorum is not present, no action may be taken.

Regular Session Council meetings (HRC 5.1) are held on the second and fourth Tuesday of each month at 7:00 p.m., except on legal holidays as determined by Council. A Regular Session Council meeting can only be cancelled by a Resolution passed by the Council at a prior Regular Session meeting. Meetings are recorded and minutes are taken and prepared for all Regular Session and Special Session meetings (HRC 5.7). Minutes shall be a summary of the meeting focusing on the actions taken and are not verbatim minutes. Per the City-adopted State of Colorado Records Retention Policy, minutes are permanent records. Council meeting minutes exist for Council meetings dating back to the City's incorporation in 1880.

The first Regular meeting following each General Municipal Election shall be the **Reorganization meeting** of the Council and shall be held on the Monday immediately following the Election (HRC 4.9). The City Clerk shall administer the Oath of Office to the Elective Officers at the reorganization meeting.

The Mayor and Mayor Pro Tem will be selected by the entire Council at the Reorganization meeting the first Monday after the General Municipal Election. The term of the Mayor and Mayor Pro Tem will be two years, until the reorganization meeting for the next General Municipal Election. Such selection shall be by written ballot and the majority of the members of the Council in office at the time (HRC 3.4).

Special meetings may be called, as needed, but are infrequent (HRC 5.2). No business can be discussed or acted upon at a Special meeting unless the item is included in the request for the Special Meeting and listed on the agenda of the Special meeting.

Special meetings may be called by the City Clerk on the written request of the Mayor, or any two members of the Council, on at least twenty-four hours written notice to each member of the Council (HRC 5.2) and properly noticed to the public per Colorado State Statutes requirements. A Special meeting may be called on shorter notice if all members are present or have waived the required notice (HRC 5.2). Emergency meetings may be held without 24 hour notice when necessary for the immediate preservation of public property, health, peace or safety. The majority of the Councilors in office at the time, shall be the sole judge of what constitutes an emergency. (HRC 5.2).

Work Session meetings are typically held the first and third Tuesdays of each month at 7:00 p.m. If five Tuesdays occur in a month, a Work Session can be scheduled by Council if they so choose. Council meetings may be scheduled as Council desires within the parameters of the Home Rule Charter and Colorado State Statutes "Open Meetings"

Laws. Work Session meetings may be recorded but no minutes are prepared for those meetings.

Work Session meetings take place to gather input on issues and topics that may require Council action at a later Regular Session meeting. No items may be taken under consideration at a Regular Session meeting unless information is first presented to Council at a Work Session meeting. This allows City Council time to learn about an item/issue, gather further information if needed, and listen to comments from citizens regarding the upcoming action.

Executive Sessions may be called by an affirmative vote of the Council quorum present at a Regular or Special Meeting. The purpose of calling an Executive session is to deliberate on sensitive matters that could be compromised by premature public disclosure. No action may be taken in an Executive Session. The Council can then take action on the record in open meeting, and discussion shall indicate what policy considerations led to the final decision.

While the Colorado “Open Meetings Law” (C.R.S. 24-6-401, et. seq.) requires “full and timely notice” of Regular and Special meetings, no provision in State Statute requires any particular notice of the governing body’s intention to hold an Executive Session as part of that meeting. Thus, there is no notice requirement that would impair the Council from spontaneously calling an Executive Session during one of its meetings, if the provisions of the topics are allowed in an Executive Session, as outlined in the Open Meetings Law. However, Councilors should remember that transparency is crucial in good local government decision making and Executive Sessions should be used sparingly and only in Statute-approved instances.

Attendance at Council Meetings

To serve the citizens of the City and to satisfy the role to which they were elected, City Councilors shall attend all Council Regular, Special and Work Session meetings. If a Councilor shall miss four consecutive meetings of the Council, or twenty-five percent of such meetings in any fiscal year of the City, unless such absences shall be excused by the Council, and the reason therefore entered into the proceedings of the Council at the time of such absence (HRC 4.4 F). A City Councilor may be removed from office for failure to meet attendance requirements (HRC 4.4F).

The City Manager, or designee, shall attend all Council meetings. The City Clerk or designee shall attend all Regular, Special and Emergency Council meetings. The City Attorney or designee shall attend all Regular Special and Emergency Council meetings.

Department heads and appropriate Staff members shall attend Council meetings as directed by the City Manager.

Council Meeting Agendas and Packets.

Council meeting agendas are set by the City Manager by 5:00 p.m. on the Thursday before each Council meeting. The City Clerk manages the scheduling of agenda items and the posting of meeting agendas. Council agendas are posted on the two official City Hall bulletin boards that are designated by Council the first Regular Session Meeting in January of each year. Council agendas are also posted for the public's convenience on the City's official website.

Council meeting information packets are assembled and delivered via e-mail to Councilors on the Friday afternoon prior to the upcoming Council meeting. City Council agendas and e-packets are posted on the City website on the Friday afternoon prior to Council meetings. Councilors can request an item be placed on an upcoming meeting agenda during a Regular or Work Session meeting.

Packet information is meant to help Councilors prepare for meetings. Councilors are expected to take time and read the information in advance. This prior preparation allows for meetings to be conducted more efficiently and for questions to be formulated prior to the meeting. City Councilors may also ask the City Manager or pertinent Department Head for clarification on an agenda item. City Councilors shouldn't discuss agenda items with other City Councilors prior to the meeting. This could be is in violation of the Open Meetings Laws. Discussion of City matters/issues amongst Councilors should be transparent and open to the public at all applicable times. At times, information pertaining to Executive Session topics are included only in Councilor's packet information and should not be shared with the public. This information falls under the Colorado State Statutes regarding Executive Sessions. (C.R.S. 24-6-501 et.seq.) These materials will be shredded by the City Clerk following the meeting.

Public Hearings

Public hearings are held before the City Council to hear testimony from the public regarding a specific matter. Public Hearings are scheduled on City and State-required topics such as new liquor licenses, electric utility rate increases, and some land use decisions. During a public hearing, certain procedural rules must be followed. A public hearing is called to order by the Mayor who states, for the record, the location, date, time, those in attendance, and the purpose of the public hearing. Proof of publication of the hearing is entered into the record. The hearing then proceeds with testimony of staff comments and the statements by the requesting party. Public comment testimony, pro

and con, is then received by Council. The Mayor asks the City Clerk if any additional comments were received by other communication means, and if so, the comments are read and entered into the record of the hearing. Any further general comments are then received by Council and then the Public Hearing is then closed by the Mayor. Once the public hearing is closed, Council may then discuss the topic or direct additional questions to Staff, the applicant or citizens.

Public comment at formal public hearings.

A citizen giving testimony at a public hearing must identify themselves. No anonymous testimony is allowed. One speaker at a time will be allowed to testify and testimony should be given in front of Council and not from the general audience section. Public comment may also be made for a public hearing by written comments or emails addressed to Council and delivered to the City Clerk. All written testimony must be signed and anonymous written comments will not be considered or entered in to the official record of the public hearing.

CHAPTER 3: COUNCIL MEETINGS RULES OF PROCEDURES

Public Addressing Council at Regular, Special, and Work Session Meetings

Public comment on scheduled agenda items should be made during the time when the item is being discussed and after Council and Staff make their comments. Citizens should proceed with their comments only after recognition by the Mayor or meeting Chair. Council may then respond to, ask questions or discuss the public comment. Decorum shall be maintained at all times by citizens, City Staff and City Council. Citizens are asked to keep their comments concise, to the point of the matter at hand, and not exceed five minutes in length. If the same comments have already been made by another member of the public, the citizen may be asked to cease their comments by the Mayor.

The public may also give comment on non-scheduled agenda items at the end of all Council meetings. Council will not engage in two-way conversations during the non-scheduled citizen portion of a Council meeting but will take the matter under advisement for a future meeting. This allows time for Council and Staff to gather additional information on the topic to help make informed decisions. Non-scheduled citizens are allowed up to three minutes to make their comments.

Quorum

A quorum is the minimum number of Councilors who must be present to take action (HRC 5.4). Three members of the Council constitute a quorum for the transaction of business at all Regular and Special Council meetings.

Ordinances

Ordinances are local laws enacted by City Council (HRC 6.3). Ordinances are required for every act making an appropriation creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing any burden upon, limiting the use of private property, adoption of the mill levy, and adoption of the annual budget. Procedures for passage of an ordinance are provided in the Home Rule Charter (HRC 6.3, A-J). In summary, ordinances require two readings at Council Regular or Special Session meetings. After an ordinance is introduced, it is read by title, and with sections pertinent to monetary amounts, and then is voted upon by Council. On first reading, the motion includes the ordinance be ordered published. The ordinance is then published in a newspaper of general circulation within the City (HRC 6.3J), in the City's current case, the Gunnison Country Times. During action on second and final reading, the ordinance is then deemed adopted through the motion.

Resolutions

Resolutions are acts of a relatively permanent nature and remain in effect until rescinded or amended by the Council. (HRC 6.3) Resolutions may enact legislation or policy that is not subject to penalties for violation. A resolution may also state Council's opinion or position on an issue. A resolution is introduced, a motion and second are made to adopt the Resolution, and it is adopted upon affirmative vote of the Council.

Proclamations

Proclamations are used to express appreciation for an event, organization or individual and are usually requested by a supporting organization. The Mayor typically issues and signs a proclamation. No Council action is required to issue a proclamation.

Parliamentary Procedures Basics

Parliamentary procedures are followed to allow for the efficient and consistent conduct of City Council meetings. Council meetings are conducted by a modified Roberts Rules of Order. The modification is described below under the amendment of a motion.

Motions

Basic motion: The basic or main motion is the means to put forward a decision for consideration by the Council. A basic motion might be “I move to approve the minutes of December 1, 2014, as submitted”. The motion is then seconded by another Councilor and the motion is put to discussion by the Mayor. If a second is not made to the motion, the motion dies for lack of a second. Another motion can then be made on the topic under consideration.

Motion to amend: If a Councilor wants to change a main motion under consideration, the Councilor makes a motion to amend, stating the change, and if the second is verbally agreeable to the change, then the Mayor restates the amended motion, discussion takes place if needed, and the Mayor then calls for the vote.

Approval of Motion: When the Mayor calls for the vote, no further discussion will be allowed on the motion.

Voting: Votes shall be taken by roll call vote. A roll call vote is achieved by the City Clerk by calling each Councilor’s name. Each Councilor shall individually indicate their vote in favor or opposition to the item. The vote is declared passed or failed by the City Clerk. All roll call votes are taken in rotating order. Every Councilor shall vote either “yes” or “No” or “Abstain”. Three affirmative votes are required to approve a motion. In the event an even number of Councilors are present as a quorum to vote, and a tie vote is the result, the motion fails as a negative vote. The minutes shall record how each Councilor voted on each question. The Mayor shall not entertain comments from the Staff or the public during voting.

Abstaining: If a Councilor has a conflict of interest, such as a pecuniary interest in the outcome of the item being voted upon or was not present at the meeting minutes being considered, the Councilor should vote to abstain on the motion and shall state the reason for their abstention.

Motion to Continue: A motion to continue has the effect of moving an item to a future agenda. The motion must include the meeting date to which the item is being continued.

Motion to Table: A motion to table an item under discussion is used to set aside an item for a more pressing matter. It is not used to “kill” an item. Once the more pressing matter has been disposed of, a motion to take the item from the table is in order. This motion shall be made during the same Council meeting or at the next Regular Session meeting.

Motion to Reconsider: Any action taken by Council may be reconsidered. A motion to reconsider must be made at the same meeting at which the action occurred. The motion must be made by a Council who voted on the prevailing side. A vote is then taken on the motion to reconsider. Passage of the motion to reconsider suspends all action on the

original motion. The original question is placed before the Council at the current meeting or at the next Regular Session meeting in the exact form it was in when previously adopted. The vote is taken and results determined, no further reconsideration can be granted.

Withdraw Motion: Any motion may be withdrawn by the motion maker prior to a vote on that motion with the agreement of the person seconding the motion.

Call the Question: This motion is used to cut off debate and to bring an immediate vote on the pending motion. The vote is then taken by the City Clerk.

CHAPTER 4: OTHER COUNCIL CONSIDERATIONS COMMUNICATIONS, OPEN MEETINGS, OPEN RECORDS, CONFLICTS OF INTEREST, ETHICS AND CONDUCT

Communications

E-Mail Communications:

Council shall comply with the City e-mail policies. Please note the following:

- E-mail communications between three or more elected officials concerning public business and/or pending legislation are declared to be a public meeting and are strictly prohibited.

The following E-mail communications from or to an elected official are permitted:

- Communication between fewer than three elected official in which other elected officials are not copied and which are not forward to other elected officials.
- Communication from or to a staff person or the City Attorney.
- Communication between elected officials concerning routine administrative matters, i.e., those regarding scheduling of meetings and inquiring as to the officials' availability; notices of public functions or public events; or requests to staff for factual information.

Per the Colorado Open Records Act aka CORA, (C.R.S. 24-72-201 through 24-72-309) all E-mails pertaining to City business are open to review by the public and may be requested and must be presented for inspection per the Law. These records include E-mails on your personal electronic devices, including but not limited to, your personal home computer, tablet or cell phone. All City records on these devices are considered open records.

Council Correspondence:

Correspondence from the Council should reflect the position or statements approved by the entire Council. Correspondence from the Council can be signed by the Mayor, if directed to do so by the Council, or can be signed by the individual Councilors.

Correspondence from individual Councilors should clearly reflect that it is written by an individual Councilor and not from the entire Council. Individual Councilors are advised to refrain from signing letters concerning policy issues and/or opinion. Correspondence of elected officials is specifically designated a public record. Correspondence is defined as communication sent or received by elected officials that is or can be produced in written form, including communication by E-mail. Certain correspondence are not expressly a public record, including that which is a “work product” as well as correspondence that is without demonstrable connection to the exercise of functions required or authorized by law or administrative rule and does not involve the receipt or expenditure of public funds.

City-Provided Tablets, Laptops and Electronic Devices:

In order to facilitate information dispersal to Councilors, the City may provide a tablet, computer or other electronic device to City Councilors. The device remains the property of the City of Gunnison and will be returned to the City Manager or City Clerk upon leaving the term of office, either through resignation or successful completion of the term. Councilors are responsible for the care and safety of the device. City-provided equipment shall be maintained in good condition. If the device is damaged or destroyed due to negligence or carelessness of the Councilor, that Councilor is responsible for timely replacement of the device to the City. Normal “wear and tear” of the device due to Council-related use, shall not warrant replacement by the Councilor.

The City-provided device shall not be used for any illegal or socially inappropriate actions by the Councilor. No person other than the Councilor shall use or possess the City-provided electronic device.

Conflicts of Interest

When a Councilor’s private interests as a citizen conflicts with their public duty, a Conflict of Interest occurs. Councilors are required to disclose conflicts of interest, refrain from attempting to influence other members of Councilor on the matter, refrain from discussing the matter with other Councilors, may not vote on the matter, and must leave the Council Chambers when the matter is being discussed and voted upon. A general rule is if the matter involves anything in which a Council has or might have a direct or indirect financial interest, except for matters of common public interest, such matters constitute a conflict of interest that must be disclosed in open session. The City Attorney should be consulted if there is any question about whether a Councilor does or does not have a potential conflict of interest.

Ethics

In response to the passage of Amendment 41 to the Colorado State Constitution, on January 23, 2007, the City Council adopted Resolution No. 1, Series 2007. This Resolution adopts by reference the provisions of Article 18, Title 24, C.R.S. entitled “Standards of Conduct” as a comprehensive set of standards for conduct and ethics for all City elected officials, officers, employees and independent contractors.

Not all questions involving ethics are clear cut or are addressed clearly in State Statutes, the City Code or City Charter. When faced with a difficult ethical questions, it may be helpful to ask the following questions:

- What does the law require in the situation? The law should be considered a minimum standard for ethical conduct. It should be the starting point for your decisions.
- What does the City Charter or City Code require in this situation? Consult with the City Attorney if there are questions or need clarification.
- Is this the right vs the wrong situation? Is the issue simply that doing the right thing involves significant personal cost? Remember, a Councilor’s responsibility is to do the right thing for the whole community, regardless of personal cost. Ethics and the associated legal requirements are written to avoid improper conduct, not to serve as an excuse for avoiding politically difficult decisions.
- Would I be embarrassed to read about my actions in the local newspaper? This simple evaluation can be very useful in helping clarify a sticky situation.
- Which decision will build or preserve the most public confidence in the City and the leadership of the City Council? The public expects you to base your conduct on the highest standards, even the appearance or perception of unethical behavior can test the public’s confidence in the Council’s leadership.
- Which decision is most consistent with my values? Is it fair? Compassionate? Respectful of all parties involved?
- Does this decision represent the interests of everyone in the community? Are there other stakeholders or members of the public who should be heard before this decision is made? Keeping procedures open and accessible to the public not only ensures that everyone has an opportunity to be heard, but also that the Council makes the best decisions for the City.

Quasi-Judicial Decisions

Council usually engages in legislation and administrative actions. However, occasionally the Council sits in a “quasi-judicial” capacity. Its deliberations and decisions are controlled by fundamental principles of procedural due process as guaranteed by the Colorado and the United States Constitutions designed to prevent arbitrary actions. Public hearing procedures are followed in quasi-judicial decision-making. Quasi-judicial (meaning judge-like) actions generally involve an application of previously adopted

standards to a specific individual, entity or property, based on facts developed at the public hearing conducted for that purpose. This is why testimony is solicited for those decisions. While it is always not clear what actions are quasi-judicial, most land use and liquor license applications are quasi-judicial in nature. For land use issues, the City Planning & Zoning Commission reviews the application and provides Council with a “Findings of Fact” report and recommendation for action in the Council Public Hearing process.

Quasi-judicial actions impose additional conditions on the conduct of the proceedings. For example, Councilors must be impartial, that means Councilors may not have participated in any earlier proceedings or discussions, have a personal interest in the outcome, formulated an opinion prior to the hearing or had any undisclosed ex parte (outside the hearing) conversations with a representative of one side of the other of the decision or with any member of the public, or with any other Councilor or Staff member prior to the meeting. The decision must be based on testimony and input presented at the public hearing. Quasi-judicial decisions of the Council may be appealed to District Court.

Liability

Municipalities have certain exposure to liability. A video is available outlining a Councilor’s liability as a public elected official. Following are a few items to keep in mind regarding liability and reducing your personal liability as an elected official:

- Common Law Immunity: Courts, both federal and state, protect or immunize public officials from personal liability in certain types of instances.
- Insurance: The City has public liability insurance coverage, sometimes referred to as errors and omissions insurance. The insurance offers protection, in most cases, to the City and its public officials from the costs of defense and from judgments and settlements of claims.

Reducing the Risks: since all three sources of protection from personal liability – statute, common law and insurance – have limits, self-protection is advisable. The following list provides a few suggestions for self-protection:

- Know the limits of your authority and act within those limits. Obtain legal advice prior to acting where a question exists.
- Avoid any conflict of interest or the appearance of conflict of interest. Do not act from personal motivations, otherwise, your conduct may appear to exceed the scope of your public entity duties.
- Avoid willful, wanton and malicious conduct: Broadly defined as ignoring professional advice without adequate basis; acting maliciously, vengefully, or out of personal motive; acting to benefit yourself or other individuals financially; retaliating because you disagree with an opinion expressed or legal right exercised by another.

- Establish and follow where required, understandable, practical and legally sufficient procedures which meet due process requirements.
- Be wary of involvement in personnel decisions.
- Keep good records of what you do and why do you it. Being right is good; being able to prove you are right is even better.