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HALL**



MUNICIPAL GOVERNMENT 101

Elected city officials start their public service careers with varying levels of applicable experience, but generally in the beginning, most do not know exactly what to expect or how municipal government really works. While sometimes your questions may go unanswered, other times you may not know what questions to ask. This article will address three basic yet frequently asked questions that newly elected officials are often wondering: (1) How does my position fit into the rest of my city's government? (2) What will I actually be doing? (3) How should I act to best represent my community?

How Do I Fit Into The Structure Of My City's Government?

City's Powers

Missouri cities are an extension of the Missouri state government and derive their power from the state. Cities actually have rather limited powers, mostly thanks to a court decision called "Dillon's Rule." Dillon's Rule was authored by Judge John Forrest Dillon in 1868 during his time on the Iowa Supreme Court.¹ Dillon's Rule says that a municipal corporation possesses and can exercise only powers that are granted in express words; those powers necessary or fairly implied in, or incident to, the powers expressly granted; and those powers essential to the declared objects and purposes of the corporation – not simply convenient, but indispensable. If there is any fair and reasonable doubt as to whether a municipality has a certain power,

Dillon's Rule requires courts to rule against the municipality. This keeps the powers of cities narrow and at the discretion of the Missouri General Assembly.

Classifications

Missouri has five main classifications of cities: home rule charter, special legislative charter, third class, fourth class and villages.² First- and second-class cities no longer exist as those classifications were repealed in 1975.³ Home rule charter cities, authorized by Missouri Constitution Art VI, § 19, have a constitution-like charter that allows the city to make its own organic law. Home rule charter cities are less bound by Dillon's

Rule and have all powers that the Missouri General Assembly could confer.⁴ Home rule charter cities must have a population of 5,000 or more, while special legislative charter cities do not have a population requirement.⁵ Cities with a special legislative charter have individual powers granted by the Missouri General Assembly prior to 1875.⁶ There are six Missouri municipalities still operating under special legislative charters (Carrollton, Chillicothe, La Grange, Liberty, Miami and Pleasant Hill).⁷

Third-class cities have a population between 3,000 and 30,000 (at the time of incorporation). There are four types of third-class cities: mayor-council, mayor-city administrator-council, council-manager and



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commission. In a council-manager third-class city, a city manager is responsible for day-to-day management of the city and a five-member city council performs legislative duties and elects a mayor from its own members.⁸ Fourth-class cities are the most common type of city in Missouri and have a population of between 500 and 3,000. There are two forms of fourth-class cities: mayor-board and mayor-city administrator-board; with either form the mayor only votes in the event of a tie.⁹ Towns and villages are municipal corporations with fewer than 500 people (the terms “town” and “village” are interchangeable).¹⁰ Villages are overseen by an elected board of trustees, and the board elects its own chairman – a position that functions much like a mayor.¹¹

What Do I Actually Do As An Elected City Official?

As a city official, you already know that you were elected to represent your fellow citizens while making decisions and laws that impact your community; however, maybe you do not know how you enact and enforce those decisions and laws. Meetings, ordinances and resolutions are your main tools in the administration of your city. In meetings of the city council, board of aldermen or board of trustees, ordinances, resolutions and votes will put into effect the decisions that you

make as a governing body. Some of the decisions will be legislative, where you will make the rules (e.g., approving ordinances), while other decisions will be administrative (e.g., determining the governing body’s meeting schedule).

Ordinances And Resolutions

Ordinances and resolutions are the structures of the decisions and laws that you will be considering. There are several key differences between ordinances and resolutions. An ordinance is the legislative act of a governmental body that creates a new law in your community. Ordinances are classified as general (i.e., applies to everyone) or special (i.e., applies to a specific situation). Re-zoning property is an example of a special ordinance. Other types of ordinances include penal (i.e., municipal court), contracts, etc. Ordinances must be adopted by a legally existing governing body, and the governing body must have the power to act. Also, ordinances must be within the scope of power for that governing body.¹² Additionally, ordinances must be adopted in the required form and by using the proper procedure in order to be valid.

Resolutions are administrative acts of a governmental body and are considered a mere expression of opinion that deals with matters of special or temporary character. There is no real distinction between a resolution

and an approved motion, as a resolution is essentially an approved motion in writing. Resolutions and motions, unlike ordinances, are only in effect for as long as the specific governing body that passed them remains in power.

Meeting Procedure

Many cities use parliamentary procedure and “Robert’s Rules of Order” to conduct meetings. However, despite the wide use, the utilization of Robert’s Rules is not required by statute and is actually not well-suited to small governing bodies because of its complexity. Several alternatives exist, including “Suggested Rules of Procedure for Small Local Government Boards” and “Suggested Rules of Procedure for a City Council,” both by A. Fleming Bell, II.

Regardless of whether your city uses Robert’s Rules or something else, there are five basic procedural steps that should be present at every meeting of a governing body. First, a quorum (i.e., the minimum number of members required to be present) must be established before the meeting proceeds. Second, the presiding officer controls the direction, productivity and tone of the meeting. Third, an agenda is set, approved and followed. Fourth, for the sake of efficiency, public comments should be limited to specific times during the meeting. Finally, motions are brought forward, discussed and acted upon. Furthermore, passing a motion requires its own procedure: obtaining the floor; making a motion; another elected official seconds the motion; the governing body discusses and debates the motion; the governing body votes on the motion; and the result is announced.

How Should I Act To Best Represent My Community?

Your friends and neighbors have elected you to represent them. In addition to the fundamental goals of professionalism and transparency, specific tips for successful representation include the following:

Trust city staff – City staff are stakeholders like you and should be trusted to do their jobs. There is a time and place to challenge or question decisions made by staff, but it should not be during a meeting.

Give fair warning – If you know you are going to bring up an issue that you want a complete and satisfactory answer to, let staff know in advance that you will be bringing it up so they can be prepared.

Involve your city attorney before you make a legal decision – The cost of including your city attorney in an initial legal decision is fairly minimal when compared to the potential cost to involve them after a decision has been made and possibly needs to be mitigated.

Call a time out – If during a meeting you have a question regarding a possible legal issue and you do not know if you can or should discuss it in public, you should call a recess to confer with your city attorney.

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Arguing – While an issue may be important to you, passionate discussion and debate should never devolve into arguing.

Wear your office well – Dress professionally when attending meetings. The way you present yourself will set the tone for citizens' expectations and opinions of your city's government and you.

Social media etiquette – Avoid posts that could be viewed as malicious, obscene, threatening or intimidating. If you come across a negative or disparaging post or comment about the city, avoid the temptation to react immediately by replying in the moment. Instead, bring it to the attention of the appropriate individual(s) so it can be properly addressed.

In Conclusion

Like anything else, there is a learning curve to being a well-informed elected official, it does not happen the moment you are sworn in. One of the best ways to improve yourself, whether you are newly elected or experienced, is to continually take advantage of available training and networking

opportunities. The knowledge, skills and connections gained at meetings, seminars and conferences can help you become a successful elected official that translates into a successful community. 🍀

Jeremy Cover joined *Lauber Municipal Law, LLC*, in 2015, and practices in the areas of general municipallaw, municipal prosecution, dangerous building and nuisance abatements, economic development, as well as regulatory and statutory compliance, including Missouri's Sunshine Law. He can be reached at (816) 525-7881 or jcover@laubermunicipal.com. To learn more visit the firm's website at www.laubermunicipallaw.com.

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Endnotes:

1) *The U.S. Supreme Court adopted Dillon's Rule in Hunter v. Pittsburgh, 207 U.S. 161 (1907), citing Dill. Mun. Corp. 4th ed.*

2) For more on Missouri municipality classifications, see *Forms of Government for Missouri Municipalities*, Missouri Municipal League, June 2007 http://www.mocities.com/global_engine/download.asp?fileid=021F4AD8-0B56-4818-ADD1-1F60F5DB8634&ext=pdf.

3) See *Mo. Rev. Stat., Chapter 73-76*.

4) *Mo. Const. Art. VI, § 19(a)*.

5) Specific statutes are found at *Mo. Rev. Stat., Chapter 82*.

6) *Forms of Government for Missouri Municipalities*, supra note 2, at fn. 1.

7) *Id.*; Specific statutes for special charter cities are found at *Mo. Rev. Stat., Chapter 81*.

8) Specific statutes for third class cities are found at *Mo. Rev. Stat., Chapters 77 and 78*.

9) Specific statutes for fourth class cities are found at *Mo. Rev. Stat., Chapter 79*.

10) *Mo. Rev. Stat. § 80.010*. (“town’...shall be construed to include village”).

11) Specific statutes for towns and villages are found at *Mo. Rev. Stat., Chapter 80*.

12) See discussion of Dillon's Rule, supra.

Mark Your Calendars!

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