

LMC Annual Conference 2025

Top 10 Things Your City Attorney Wants You To Know

Presented by:



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Top 10 Things Your City Attorney Wants You To Know

1. Charter vs. Statutory Cities

Charter is a local framework for a City's form of government and may only be adopted after approval by the voters.

- Form of Government (Mayor-Council, Council/Manager Plan); wards, terms, mayor's ability to vote; recall of Council members; referendums/petitions for ordinances; filling vacancies on the Council; procedures for Council; City Administrator/Manager's powers and duties; budget preparation/passage; franchises (Xcel, NSP); utilities (electric, water, storm, streetlight)

2. Open Meeting Law

Quorum of the Council; discusses, decides, or receives information as a group; information is related to official business; round robin style of contact, even though by an intervening party, is still considered a violation of the OML

3. Closed Meetings

Mandatory Closed Meeting:

- Victims or reporters of criminal sexual misconduct, domestic abuse, or maltreatment of minors or vulnerable adults; active criminal investigation; allegations of law enforcement personnel misconduct; individual medical records

Permissive Closed Meeting:

- Purchase/sale of property, appraisal date, performance evaluation, security briefing, attorney/client privileged and confidential, labor negotiations, public meeting – vote to hold a closed meeting

4. Attorney-Client Privileged Communications

Attorney-client privilege...is to be employed or invoked cautiously and seldom in situations other than in relation to threatened or pending litigation. *Brainerd Daily Dispatch v. Dehen*, 693 N.W.2d 435 (Minn. App. 2005).

5. Data Practices

Places you might create or receive govt data- emails, texts, notes, voicemails, office and other documents

Nonpublic Data - personnel performance, complainant identity, labor negotiations, real estate negotiations, attorney/client privilege

Best Practice- a good rule of thumb is to assume everything, including all emails, text messages, and notes, you create or receive will be public. Use your official email for public business only.

6. Zoning – Variances

Variances may only be granted when there are “practical difficulties”

- Property will be used in a reasonable manner
- There are circumstances unique to property not caused by landowner
- The variance will not alter essential character of locality

7. Signs - Free Speech

- Government cannot regulate the content of signs
- Government can regulate time, place, and manner
- Size, location, number, zoning districts

8. RFB, RFQ, & RFPs

City Business – four means of seeking construction, property, or services (RFB, RFP, RFQ, direct negotiations)

- Request for Bid = City's offer. Acceptance = contractor's bid.
 - o City Offer Contingencies: subject to Council approval, contractor held to bid amount and requirements for 30-60 days
 - o Post-approval, contractor demonstrates that it can fulfill contract requirements
- Request for Proposal – City seeks an offer from a business or initiates a negotiation.
 - o Typical: professional services, real estate development
 - o RFP asks interested persons for proposals that define the offered services and the amount they will cost
- Request for Quote – city seeks an offer for contracts under \$175,000
 - o Typical: all other City contracts (except for those \$25,000 or less) where the City elects to contract through direct negotiations

9. Conflicts of Interest

471.87 PUBLIC OFFICERS, INTEREST IN CONTRACT; PENALTY.

- Except as authorized in section [123B.195](#) or [471.88](#), a public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom. Every public officer who violates this provision is guilty of a gross misdemeanor.

Contractual: official has personal financial interest in a contract, sale, lease

Non-contractual: official has personal financial interest in a non-contractual decision

Conflict procedure:

- Identify conflict on the record
- Council member abstains from discussion and voting
- Council approves, unanimous usually required

10. Reviewing Your City Code – Challenges to each process

Basic model code

- Still have to review each section with Council

LMC/ALP/Other

- Still have to review each section with Staff and then with Council
- Must be clear with codifier about the process you want
- Lag time to get amendments back from codifier

Doing it yourself

- Resources, expense, frustration