



**AGENDA
CITY OF CEDAR FALLS, IOWA
CITY COUNCIL WORK SESSION
MONDAY, OCTOBER 19, 2020
5:30 PM AT CITY HALL VIA VIDEO CONFERENCE**

To protect against the spread of the COVID-19, the meeting will be held via video conference. The public may observe in the following ways:

- a) By dialing the phone number +13126266799 or +19292056099 or +12532158782 or +13017158592 or +13462487799 or +16699006833 and when prompted, enter the meeting ID (access code) 962 7287 1738.
- b) iPhone one-tap: +13126266799,,96272871738# or +19292056099,,96272871738#
- c) Join via smartphone or computer using this link: <https://zoom.us/j/96272871738>.

Call to Order by the Mayor

- 1. City Council Organizational Effectiveness.

Adjournment



AHLERS COONEY
ATTORNEYS

City Council Workshop

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Disclaimer

Please note that this presentation is intended for informational and educational purposes and to provide general statements from federal law, state law, and agency guidance. Federal and state law may differ on particularized areas and this outline does not include all legal considerations. Each situation varies based on the individualized facts and the law is constantly evolving.

Please consult with your attorney for specific legal information, advice, or individualized inquiries.

Topics to be covered

- The Big Picture & the Role of the City Council
- Best Practices & Options
- Open Meetings

The Big Picture

- “A power of a city is vested in the city council except as otherwise provided by a state law.” Iowa Code Sec. 364.2
- Iowa statutes do not vest any power in individual council members.
- Exception to this is for mayors as they have specific powers under Iowa law and city ordinance. Council members, however, do not.

The Big Picture

- Cedar Falls operates under the mayor-council form of government.
- Iowa Code Sec. 372.4(1)(a) allows the council to provide for a city manager and prescribe the manager's powers and duties.
- City has done this by ordinance, which is permitted by the Iowa Code.

The Big Picture

- City Code establishes the framework under which the city operates.
- The mayor is the chief executive of the city and the presiding officer of the council.
- Cedar Falls has established a framework by which the council sets policies, and the city administrator implements those policies.

The Big Picture



- **The mayor**
- **Sec. 2-187(b)(1).** - The mayor shall supervise all departments of the city and give direction to the department heads concerning the functions of the departments. The mayor shall have the power to examine all functions of the municipal departments and their records and to call for special reports from department heads at any time.
- **Sec. 2-217.** - The mayor shall supervise the city administrator and the mayor shall prepare an annual performance evaluation of the city administrator. Said evaluation shall be available for review by the council.

The Big Picture

- **The council**
- **Sec. 2-216.** - City council policy guidance. The city council shall annually adopt broad goals, objectives and program performance measures to guide the city administrator in the development of an annual operating budget, capital improvements program and administration of city projects and programs.



The Big Picture

- **The city administrator**
- **Sec. 2-218.** - Power and duties. The city administrator shall be the chief administrative officer (CAO) of the city, responsible to the mayor and city council for the management of all city affairs placed in the administrator's charge by city ordinance.

The Big Picture

- Your authority and powers come from actions taken as part of the city council, not your actions as an individual.
- The council is responsible for establishing policies and direction for the city, the implementation of those policies is left to the city administrator, with direct supervision by the mayor.
- This framework comes from both state and local law.

The Big Picture

- Individual council members do not have the authority to implement policy changes individually by going directly to city departments or staff members
 - This creates confusion
 - Mixed messages
 - Can create liability for the city or for yourself

The Big Picture

- Individual council members do not have the authority to bind the city.
- “If an officer acts in bad faith or knowingly exceeds his authority, he may be held personally liable for damages.” *Elview Const. Co., Inc. v. North Scott Community School Dist.*, 373 NW2d 138, 145 (Iowa 1985).

Questions on The Big Picture?



Best Practices & Options



- How to work effectively...
 - Council must take action as a body
 - Work together to achieve common objectives
 - Identify a shared direction and set of goals
 - Provide policy direction to the city administrator
 - City administrator's role is to implement these policies through various departments and staff

Best Practices

- Annual goal setting meetings are opportunity to identify priorities and provide policy direction
- The City's work over the next year should focus on the priorities identified at goal setting
- Respect the process and the results from that process, do not allow yourselves to get off track

Best Practices

- Allow the City's professional staff to implement the Council's priorities
- Recognize and value the expertise and experience that the staff provide
- If you have specific concerns, share them with the City Administrator, do not go directly to a department head or staff member
 - You are one of seven!

Best Practices

- Recognize that each member of the council is entitled to their own opinion and an opportunity to express that opinion
- Disagreements are normal, inevitable and can be very productive



Options

- Committee of the Whole (COW) versus Departmental/Task Committees
- City Code provides that mayor shall make committee appointments
- Standing and special committees
 - Standing committees – 7 members
 - Special committees – 5 members

Options

- City council currently operates under COW structure
 - COW ensures everyone is receiving the same information and voting based on that information
 - COW allows staff to make presentations to the full council

Options

- If council wants to have smaller committees assigned to certain tasks/departments it will need to amend city code
 - Standing committees currently require 7 members
 - Standing committees include PW, Administration, Community Relations & Planning

Options

- Under either option, open meetings law must be followed
- All final action must be taken by full city council
- Committees are only authorized to bring recommendations forward to full council

Questions about Best Practices & Options?



Open Meetings

- Iowa Code Sec. 21.1 Intent
- This chapter seeks to assure, through a requirement of open meetings of governmental bodies, that the basis and rationale of governmental decisions, as well as those decisions themselves, are easily accessible to the people
- Ambiguity in the construction or application of this chapter should be resolved in favor of openness



Open Meetings

- The law is to be liberally construed
- Its purpose is to prohibit secret meetings and to require such meetings to be open and to allow the public to be present
- *Donahue v. State* Iowa Supreme Court 1991

What is a governmental body?

- City council or
- An ... advisory committee, task force, or other body created by ... an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.

What is a meeting?

- A gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties
- Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter

Meetings of Governmental Bodies

- Shall be preceded by public notice and shall be held in open session unless closed sessions are expressly permitted by law
- All actions and discussions shall be conducted and executed in open session
- Each governmental body shall keep minutes of all its meetings

Notice Requirements

- Govt. body shall give notice of time, date and place of each meeting and the tentative agenda of the meeting
- In a manner reasonably calculated to apprise the public of that information
- Notice shall be posted on bulletin board or other prominent place which is easily accessible to the public
- Notice must be provided to news media who have requested such information

Notice Requirements

- Shall be given at least 24 hours in advance of the start of the meeting
- Unless for good cause such notice is impossible or impractical
- As much notice as is reasonably possible shall be given



Minutes

- Show time, date, place and members present at the meeting
- Show the results of each vote taken
- Include sufficient information to indicate the vote of each member
- All votes shall be made public in open session
- Voting by secret ballot is prohibited

Closed Session

- Meetings must be held in open session unless closed session is permitted
- Iowa Code Sec. 21.5 lists 12 possible reasons for going into closed session
- Nothing in the law requires a closed session; can always choose to remain in open session
- Final actions must be taken in open session
- Can enter closed session by affirmative vote of 2/3 of members of the body or by all members present at the meeting

Closed Session

- The reason for holding the closed session by reference to a specific exemption under Iowa Code Section 21.5 shall be announced publicly at the open session and entered in the minutes



Closed Session

- Must be recorded and minutes must be taken
- Recording and minutes must be retained for at least one year



Rules of Conduct at Meetings

- The public may use cameras or recording devices at open meetings
- Nothing in Chapter 21 prevents a governmental body from making and enforcing reasonable rules for the conduct of its meetings to assure those meetings are orderly, and free from interference or interruption by spectators
- Public comment is only required to be allowed at public hearings

Open Meetings Violations

- Iowa Code Sec. 21.6 Penalties for violations
 - Damages may be assessed against all who participated in the unlawful meeting unless can claim a valid defense (up to \$2,500 in certain circumstances)
 - Costs and reasonable attorney fees shall be paid either by those who participated in the unlawful meeting, or if a valid defense, then by the government itself

Open Meetings Violations

- Iowa Code Sec. 21.6 Penalties for violations
 - Actions taken by the body in violation of the law may be voided
 - Member shall be removed if there has been a prior violation
 - Injunction against further violations of the law
- Ignorance of the law is not a defense

Questions?



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