

Councilor Roles & Authority



Within the Limits of Authority: Who Does What? An Overview of a Individual Councilor's Role

Members of a city council rightly view themselves, and are viewed by others, as leaders within their communities. Leaders are often described as individuals who make sound and timely decisions, set the example, take responsibility for their actions, and drive change. Those who successfully run for office often exhibit these and other leadership traits. However, leaders must also be team players, and when individuals are elected to city council they become part of a larger group—the council. It is the council, as a group, that leads a city.

Determining exactly what authority an individual councilor, the mayor or the full council possesses can be confusing. This article explores some of the most common issues relating to who has the authority to do what within a city council.

The Full Council

As a general rule, individual city councilors have no authority to take actions or make decisions on behalf of a city. Rather, in most city charters the power to take actions or make decisions is vested in the city council, which may delegate this power. It is important for individual councilors to recognize this limitation in order to avoid causing conflict with other councilors or city staff. In addition, recognizing this limitation will also help councilors avoid taking actions that could lead to personal liability, such as the unauthorized expenditure of city funds.

Because all power is vested in the city council, unless there has been a delegation to another councilor or city employee, councilors generally must conduct all of their business as a group at meetings that are open to the public, and may not take actions as an individual acting alone. As a result, this limitation generally precludes individual councilors from taking administrative actions on behalf of the city, such as entering into contracts or waiving penalties for late water bill payments.

In addition, the limitation of power generally precludes councilors from monopolizing staff time with individual requests that have not been approved by the council as a body. In fact, many cities have specific council rules that address this issue. In The Dalles, Council Rule 14.9 provides that the “mayor and councilors will not direct staff to initiate any action or prepare any report that is significant in nature, or initiate any project or study without the approval of a majority of the council.” It is important for councilors to appreciate this aspect of the limitation as misunderstandings may arise even when a councilor intends only to ask for information. An employee receiving a direct request from a councilor can easily jump to erroneous conclusions or misinterpret the councilor's intent. As such, the best way for councilors to get information about administrative matters is to make the request during a regular council meeting or to direct the request through a specific manager or administrator designated by the full council.

There are, of course, exceptions to this general rule. Some charters, city ordinances, or council rules delegate authority to individual councilors or groups of councilors to take limited actions or make limited decisions on behalf of the city. As explained in further detail below, the most common of these exceptions are for the mayor, the council president or mayor pro tem, and council committees.

Authority of the Mayor and Presiding Officer

The mayor's authority beyond that of a regular councilor will vary from city to city depending on the city's charter and its form of government. In most cities, the mayor presides over council meetings and participates in discussions. In many cities, the mayor may vote only to break a tie; while in other cities, the mayor votes on every matter before the council. Some charters may also provide the mayor the authority to veto ordinances approved by the

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council (and a procedure to override the veto). Depending on charter provisions, the mayor may appoint certain staff members, such as the city manager, city attorney and police chief, subject to council approval. Similarly, with council approval the mayor may also appoint members to various city committees. Most mayors also sign all ordinances and other records of proceedings approved by the council, and in small cities they may sign all orders to disburse funds.

In addition to the mayor, who ordinarily presides over city council meetings, most cities also have a council president or mayor pro tem, who presides over the council in the mayor's absence and may perform other functions of the mayor at those times. The functions of the mayor or other presiding officer are to: call the meeting to order; announce the order of business as provided in the agenda; state motions, put them to a vote, and announce the result of the vote; prevent irrelevant or frivolous debate or discussion; maintain order and decorum; and otherwise enforce the council's rules and appropriate parliamentary procedures.

Other Powers of a Council

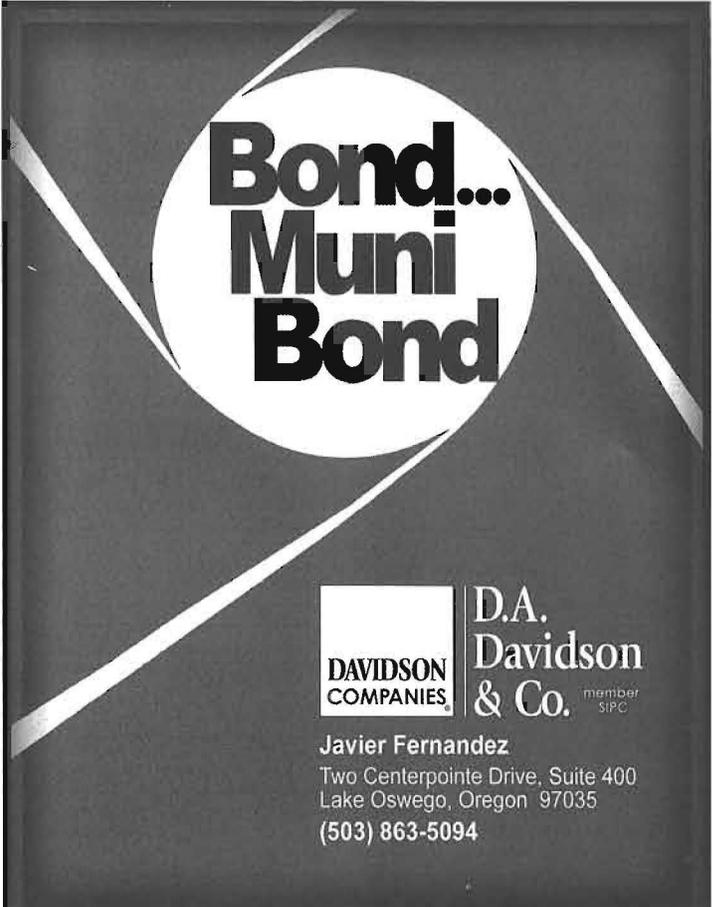
The power to establish committees is usually found in the charter, in an ordinance or in council rules. In addition, some committees, such as the budget committee, are required and governed by state law. Once created, a council committee has the authority delegated to it by the council. Some councils have standing committees with jurisdiction to discuss and deliberate upon matters within their specific subject matter. For example, standing committees may be assigned to develop recommendations to the full council; exercise oversight over certain city departments or groups of departments (e.g., public safety committee, public works committee); or be charged with working on a continuing problem (e.g., economic development). Other councils do not use standing committees, but rather special or ad hoc committees to address a specific subject or issue. For example, some cities use a special committee to interview potential employees who are hired directly by the council. In either case, it is important to remember that the committee may exercise only the power that the full council has delegated to it.

Finally, councils may delegate authority to individual councilors to take certain actions or make certain decisions on behalf of the council. For example, some smaller cities divide the various administrative duties related to running a city among the various councilors. This type of council delegation is usually contained in a formal council ordinance or resolution but sometimes is done by consensus or motion. As with the other situations discussed above, the ability of the individual councilor to act on behalf of the city in these situations extends only as far as the council has provided authority in its delegation.

As charters, ordinances and council rules vary from city to city, it is important for councilors to seek the advice of their city attorneys regarding the specific powers and duties that they possess as individual councilors. Nonetheless, keeping in mind the general rule that the council must act as a body will go a long way towards achieving an efficient and cohesive council.

Editor's Note: This article is necessarily general due to the complexities of and variations between the many city charters, ordinances and council rules that govern the powers and duties of individual councilors. Accordingly, this article is not intended to provide legal advice. Councilors have the right and are encouraged to seek legal advice from their respective city attorneys. ■

Next Month: "Beyond the Limits of Authority: Personal Liability for Councilors"



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