

# How to manage your city council

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Although inspired in part by true incidents, the following stories are fictional and do not depict any actual person or event.

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# Managing your city council



The following are a selection of purely hypothetical council members or councils.

The intense  
new council  
member.





# Managing your city council meeting

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To give or not to give legal advice in open session?





# Managing your city council meeting

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## Attorney Client Privilege

- RPC 1.13 privilege belongs to the city; can be waived by authorized agents (council or mayor).
- Privilege Waiver – beware of subject matter waiver.





# Manage your city council meeting

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## **Attorney Client privilege**

- Ask yourself: Would the city ever want to take an opposite position in a public filing? In a negotiation? In court?
- “Great topic, if you would like to break for executive session then let’s do that.”
- Educate councilmembers to seek your advice beforehand.



Council  
member who  
wants you to  
be “their”  
attorney.







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Who is your client?

**RPC 1.13**

**Organization as Client**

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.



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## RPC 1.13

### *Comments - Government Agency*

“The duty defined in this Rule applies to governmental organizations.”

In a matter involving the conduct of a council member, “a government lawyer may have authority under applicable law to question such conduct more extensively than that of a lawyer for a private organization in similar circumstances.”

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**Council  
member who  
wants to be  
mayor.**



# Managing your city council meeting

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What if a council member appeals to the city attorney in open session to give legal blessing to one side of a debated issue?

# Managing your city council meeting

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Avoid being used in this way. The cost is your credibility as neutral, trusted advisor.



Pre-meeting, send email sharing your legal advice with all council members.

# The civil war divided council





# The civil war divided council



## *Ellis v. City of Corvallis (D. Or. 2025)*

Going to extremes: Removal of Councilmember?

Ellis served on Council and on Climate Advisory Board

Raised concerns about sufficient staffing to support CAB

At Council meeting, her motion to “order” the city manager to fill an open staff position was defeated after City Attorney told Council they could not direct the city manager’s staffing decisions

Later, the Mayor, Council President, and City Attorney told Ellis she would be removed from Council for interfering with administration based on her comments to CAB and Council

Corvallis city charter prohibited councilmembers from:

Any ... attempt to influence or coerce the Manager in the making of any appointment or removal of any officer or employee ... or discuss ... with the Manager the matter of specific appointments to any City office or employment. A violation of the foregoing provision of this section shall forfeit the office of the offender. Nothing in this section shall be construed, however, as prohibiting the Council, while in open session, from discussing with or suggesting to the Manager, fully and freely, anything pertaining to the City affairs or the interests of the City.

# The civil war divided council



## *Ellis v. City of Corvallis (D. Or. 2025)*

Council adopted a Resolution of Expulsion

City Council retained outside counsel to prepare legal memo for hearing on expulsion

Ellis sued and obtained preliminary injunction against efforts to remove her

First Amendment claims

- Removal proceedings chilled political speech
- Compromised ability to represent constituents by limiting ability to discuss job performance with employee the Council was charged with evaluating and disciplining

Facially invalid under state and federal constitutions

“The First Amendment surely promises an elected representative ... the right to speak freely on questions of government policy.”

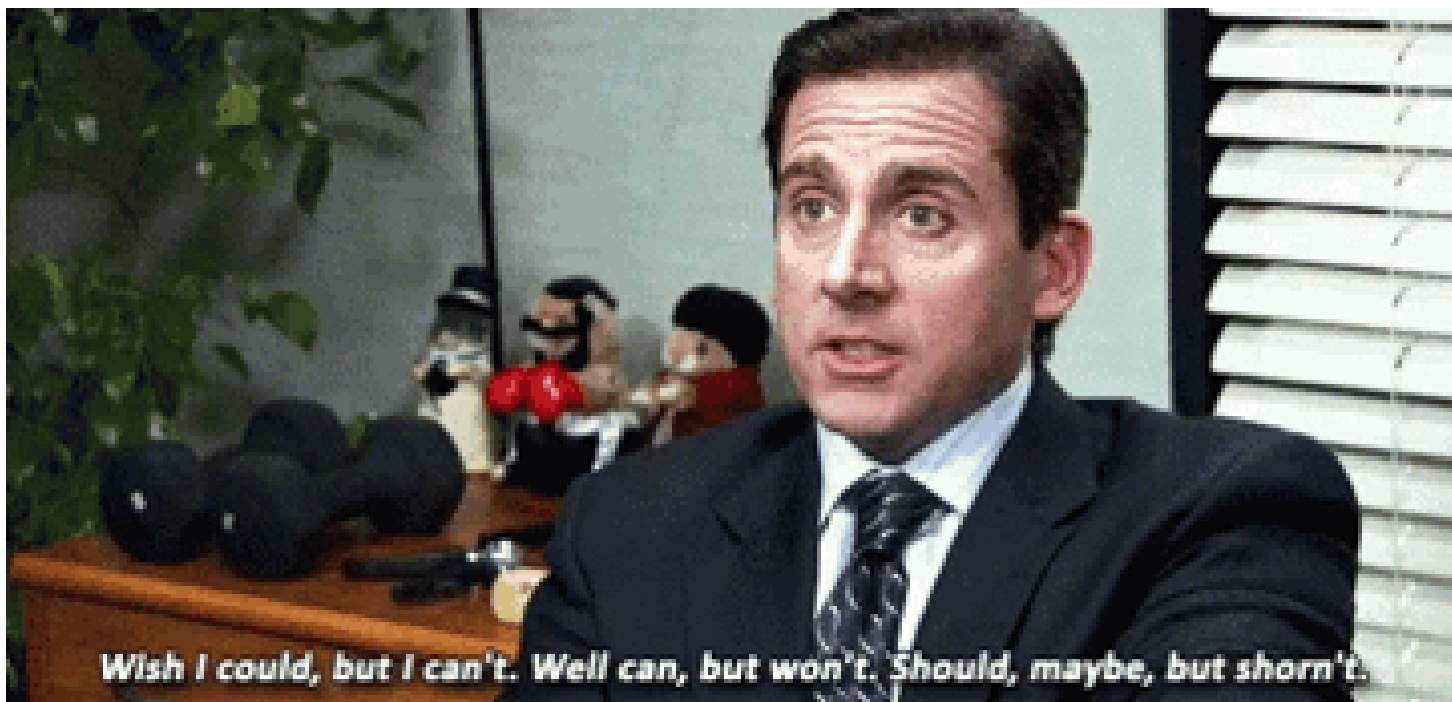
*Houston Cmty. Coll. Sys. v. Wilson*, 595 U.S. 468, 478 (2022)

What was the City Attorney thinking?



# Managing your city council meeting

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What if a council member requests an executive session on questionable grounds?

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## Executive Session

### RCW 42.30.110(1)

(b) Consider real estate lease or purchase when public knowledge likely cause an increase in price.

(c) Consider “minimum price” of real estate sale or lease. Public knowledge likely cause a decrease in price.





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## Executive Session

*Columbia Riverkeeper v. Port of Vancouver USA*, 188 Wn. 2d 421, 448 (2017).

“The plain language of the provision confines discussion in executive session to the lowest acceptable value to offer land for sale or lease, and does not permit discussion of all factors that influence price.”

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## Executive Sessions

RCW 42.30.110(1)

(h)(i) Discuss with attorney enforcement action, litigation or potential litigation when public knowledge likely result in adverse legal or financial consequences.

(h)(iii) Litigation or legal risks of a proposed action or current practice.







# Manage your city council meeting

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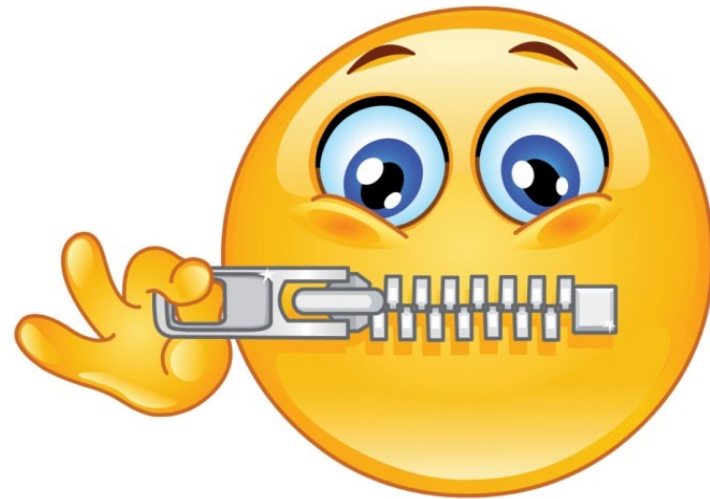
What if you are told by a council member that another council member has disclosed executive session information?



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RCW 42.23.070(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.





# Managing your city council meeting

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## RPC 1.13 Organization as client

(b) If a lawyer for an organization knows that an officer ... is engaged in action ... in a matter related to the representation that is a violation of a legal obligation to the organization ... and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances, to the highest authority that can act on behalf of the organization as determined by applicable law.



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- Verbal admonishment
- Written reprimand
- Censure

RCW 42.23.050 . . . Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law. In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office.



# Managing your city council meeting

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## Parliamentary procedure

Do smaller cities really follow Robert's Rules?

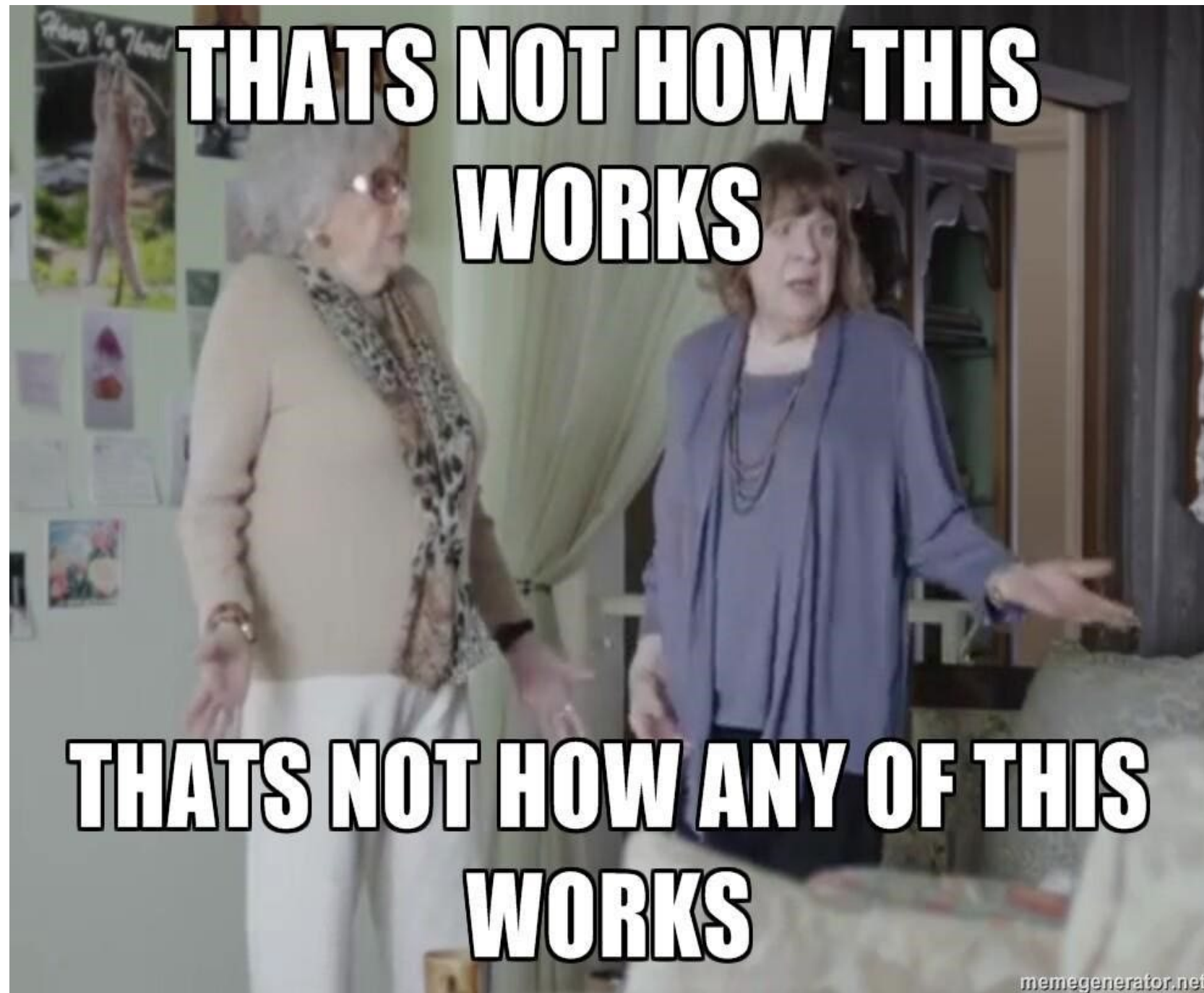
Or is that a fake ideal?

## Managing your city council meeting

Parliamentary  
procedure

Should the City Attorney  
serve as parliamentarian?

Many council rules say  
yes. But is it a good  
practice?





# Managing your city council meeting

## Parliamentary procedure

Motions in the agenda  
bills are not usually  
the problem

Jurassic Parliament  
Training





# Managing your city council meeting

## Parliamentary procedure

Can Robert's Rules help the civil war council?



# Managing your city council meeting

Parliamentary  
procedure

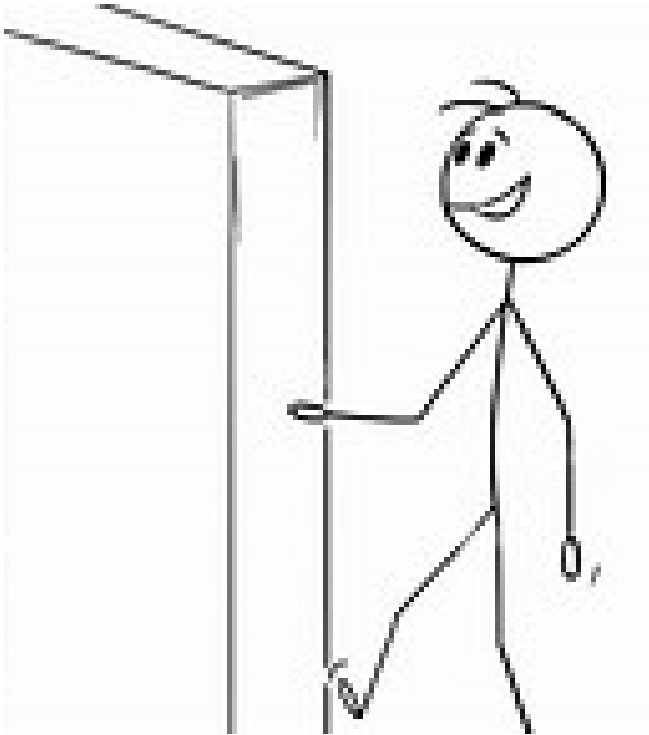
Can Robert's Rules  
help the civil war  
council?





# Managing your city council meeting

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## Recusal

What kinds of personal interests require recusal?

What does recusal require the council member to do?

Let the Municipal Officers Ethics code be your guide. Ch. 42.23 RCW.



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## Recusal

RCW 42.23.030, *Interests in contracts prohibited*

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases: ...

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## Recusal

RCW 42.23.030, *Interests in contracts prohibited*

A municipal officer may not vote in the authorization ... of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes ... before the formation of the contract.





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## Public comment

Any role for the city attorney to play during public comment?





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## Public comment

Not a time to  
debate or defend  
yourself or the  
Council.





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## Public comment

RCW 42.36.060, *Quasi-judicial proceedings*

During the pendency of any quasi-judicial proceeding, no member of a decision-making body may engage in ex parte communications with opponents or proponents with respect to the proposal which is the subject of the proceeding.



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## Public comment

Candidates - RCW 42.17A.555, *Use of public office or facilities in campaigns*

“No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.”



# Managing your city council meeting

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## Meeting Agenda

Consent agenda – make sure council members know they can pull items off without a motion

Published agenda – regular meeting, anything can happen, even without prior disclosure

Control - who can put stuff on the preliminary agenda? Clear council rules. But make sure less than a quorum is needed to place an item on the preliminary agenda to avoid possible OPMA issues.

# Managing your city council meeting

The special challenges  
of Zoom meetings.





# Managing your city council meeting

Key is preparation.

Anticipate issues before meeting.

Meet with new Council members and educate.



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# Questions?

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