



# **LOCAL GOVERNMENT IN ARIZONA: WHAT EVERY ELECTED OFFICIAL NEEDS TO KNOW**



## CHAPTER III

### THE JOB OF THE COUNCIL

The council in Arizona cities and towns is the local policy making and law-making body possessing broad authority and the legal power to govern the affairs of the community. The job of the council essentially is to use these powers granted by state law and local ordinances for the good of the community and its residents. In legal jargon, the city or town council is a legislative body vested with all the corporate powers of the municipality. The legislative tasks of the council are accomplished through its collective power to pass laws and make decisions regarding the city or town. It is important to remember, however, that the powers of local government are restricted. Local laws must conform to the United States and Arizona Constitutions, federal laws and the laws of the state of Arizona. Although the power to enact local laws is therefore limited, a city or town council has a wide range of legal authority to pass laws for the good of the community. The actions of a city or town council over the years have determined to a great extent what type of community your city or town is at the present time, and what direction it will take in the future.

Later in this chapter several of the specific functions of the council will be discussed. However, first it is important, particularly for the new mayor or councilmember, to understand the basic setup and organization of a council meeting.

#### **COUNCIL MEETINGS**

Your collective policy and law making powers are put into action at the meetings of the council. It is here that you perform the business of your city or town. In the early days of our country, the powers of local government were exercised by all the adult members of a community coming together to decide what the laws were going to be. The democratic concept of those early town hall meetings has carried over to today in the exercise of governmental powers by city or town councils throughout the United States. In fact, this early heritage carries over to local governments far more than to any other level of government in our country today. The opportunity for citizens to be heard, the availability of local officials to the citizenry and the openness of council meetings all lend themselves to the essential democratic nature of local government.

However, it should be emphasized that the council meeting is exactly that, a meeting of the council. It is not the public's meeting. As an elected official, you have the responsibility of representing the citizens, and to do that job well, you have to be able to accomplish your tasks during council meetings. Remember, the right of the public under the open meeting law is simply to attend and listen to the deliberations, not participate in them.

Certainly, one of the most important jobs of the council is to hear both the requests and grievances of local citizens and to respond to the needs of the residents of the community within the realm of local decision making powers. The council will be asked to solve all sorts of problems, and, in some cases, this may be extremely difficult or impossible. However, both the



need and the value of a public forum are nevertheless critical to the viability of local government as we know it today.

Some councils have established time limits for petitions or comments from the public, and when a controversial item is being discussed a total time limit may be established for each side in the debate.

Without diminishing the extreme importance of what the council actually accomplishes at its meetings, it is nearly as important to also maintain a certain degree of decorum at the meetings. The majority of Americans today, if they ever see government at work, are most likely to judge both the effectiveness and the democracy of government through attendance at a local council meeting. After all, few citizens have the opportunity to observe the state Legislature or for that matter, a county board of supervisors at work. Your council meeting may be the only contact many people have with government in the United States. This should not lead, however, to marathon council meetings nor should the audience run the meeting. A six-hour council meeting serves no one - the ability to comprehend and make decisions is not enhanced by endurance tests. The success of council meetings often can be directly traced to the ability and willingness of the mayor to be a strong chairman. Issues should be discussed and a vote taken; there is no need to deliberate so long and hard as to run the meeting or the issue into the ground.

In Arizona cities and towns, the council is principally a policy making body with the administrative functions left up to the city or town staff, particularly in the council/manager form. Organizationally then, the council is, in almost all instances, acting as the council of the whole rather than as individual members charged with particular and distinct administrative functions.

**First Council Meeting.** The council in non-charter municipalities is required to meet within 20 days after the canvass of its election. The primary purpose of this first meeting is the election of one of the councilmembers to be mayor except, of course, when the mayor is directly elected. At this first meeting, the council may determine the schedule for future council meetings and fix the hour and date by ordinance, although usually the practice of previous councils is simply observed. The council must meet at the regularly scheduled times. A number of cities and towns have provided by ordinance for special meetings of the council, which are called by the mayor, or the manager or clerk at the request of a specified number of the councilmembers. A special meeting must be called in accordance with the notice requirements of state law, unless it is an emergency meeting. In addition, at this first meeting, the council may determine the procedures to be followed in all future meetings. Since a quorum or majority of the council is necessary to transact business, it is important that all councilmembers realize the importance of attending the regular council meetings.



**Conduct of Council Meetings.** The mayor is the presiding officer at council meetings while the city or town clerk serves as the clerk of the council. In the absence of the mayor, the vice mayor presides or the council may appoint one of its members as the presiding officer. As part of the rules of procedure to be followed by the council in its meetings, the order of business for council meetings should be determined. This order of business will constitute the agenda for the meeting; however, the order of business should be flexible rather than rigid to enable the council to conduct its business easily.

State law is very explicit about the contents of an agenda. For an open public meeting, the agenda must specifically list the items to be discussed, considered or decided upon. This prohibits the use of such agenda items as "new business," "unfinished business" or "committee reports," unless the specific items of new or unfinished business and committee reports are listed in some detail on the agenda.

As an overall framework for the business of the council, the following order is sometimes used.

1. Call To Order (Many councils then ask those in attendance to join them in the Pledge of Allegiance; some also have an opening Invocation.)
2. Roll Call
3. Minutes (The clerk may read the minutes of the preceding council meeting that should either be approved as written, or, if there are errors, these should be noted and corrected. In practice, the manager or clerk may provide the council with advance copies of the previous meeting's minutes so that they need not be read in full. However, the council should, at this time, note any errors.)
4. Petitions or Comments by Those Citizens Present or Call To The Public (You may want to provide time limits for such presentations by each individual person. The mayor is usually charged with the responsibility of asking persons to introduce themselves and to ensure that the comments of the citizens are in order.)
5. Reports From Officers and Committees (At this time, individual department heads or chairpersons of various municipal committees may be asked to report on the activities under their responsibility.) For discussion to occur on these reports, they must be listed with some specificity on the agenda.
6. Ordinances/Resolutions (This includes the introduction/ discussion of new ordinances and resolutions, which must be listed by subject matter on the agenda.)
7. Adjournment

The responsibility for drawing up the agenda is usually placed with the manager or clerk under the direction of the mayor. The agenda, as well as supporting documents, should be circulated in advance of the meeting to each member of the council, other municipal officials and interested parties such as the press. The open meeting law requires that the agenda must be made available to the public at least 24 hours prior to the meeting. In addition, copies of the agenda should be



made available to people who attend the meetings of the council. Several copies of the agenda should also be posted in conspicuous places in city hall near the council chambers. By doing this, everyone interested will know what the council will consider at the meeting and when each item will be considered.

A number of cities and towns use a consent agenda to dispose of routine matters before the council. These matters are listed on the agenda and one motion is made to approve all items on the consent agenda. Members of the council can request that an item be removed from the consent agenda for specific discussion and action. Use of the consent agenda leaves more time to consider important business before the council.

To further increase the efficiency of their meetings, a number of city and town councils schedule work sessions prior to the regular meeting time. At such sessions, councilmembers can review the matters scheduled for the meeting and have ample time to question and receive input from the staff and consult with the city or town attorney on legal technicalities. Some sort of briefing session before a council meeting is very helpful to the smooth running of the council, and more importantly, can help to ensure that councilmembers are aware of any problems and the potential consequences of their actions. If you do hold work sessions, these meetings must be open to the public and should not lead to rubber-stamping decisions at the formal council meeting.

**Council Meeting Procedures.** After the mayor calls the meeting to order and the clerk has called the roll and read the minutes of the previous meeting, the mayor as presiding officer is responsible for moving the meeting along by announcing the next order of business. The job of running a council meeting has been compared to walking a tightrope, and in many cases, it is a very appropriate comparison. You want everyone to be heard and yet there have to be some limitations in order to avoid meaningless debate. Particularly when controversial questions or matters are before the council, this can be a thorny problem. It will be up to the mayor in most cases to handle this type of situation as he or she best sees fit. A number of cities and towns use Robert's Rules of Order as a guide in matters of parliamentary procedure, although its provisions do not always fit the work of a legislative body.

The mayor should follow the prepared agenda as much as possible. That being said, deviations from the prepared agenda will certainly be necessary on occasion. In that case, the mayor should clearly announce that the council has decided to rearrange the agenda or not consider a particular item at the meeting for the information of those residents in attendance as well as other members of the council. When changing the order of discussion, it must be done so as not to prevent or deny any member of the public the opportunity to listen to the discussion of any agenda item.

Anyone addressing the council, including members of the council, should address themselves to the mayor and wait until they are recognized before proceeding further. This is to prevent general conversation and to keep the order necessary to maintain decorum and accomplish the business of the council. As the council considers specific requests or proposals, the mayor will be responsible for keeping the discussion under control. In many councils, debate will often lapse into informality; however, in voting, it is important that sufficient formality be observed to ensure that the vote on the matter is accurately recorded. Once debate is over, the mayor should restate the question in full, both for the information of the audience and for members of the council. This is particularly true when much debate has been heard on a specific matter. A



member of the council then makes the appropriate motion that is seconded by another member of the council. Immediately after a motion has been made and seconded, the mayor should state the motion. Additional debate may be allowed on a question before the mayor calls for a vote. Usually, the mayor will call for the ayes and nays by a voice vote; however, if a roll call is requested, the clerk then calls the name of each councilmember and records the vote.

To recap then . . .

***The basic steps to a motion are as follows.***

***A member of the council:***

- 1. Addresses the chair;***
- 2. Waits for recognition; and***
- 3. Makes the motion.***

***A second member of the council:***

- 4. Seconds the motion.***

***The mayor:***

- 5. States the motion;***
- 6. Calls for remarks;***
- 7. Puts the question;***
- 8. Takes the vote; and***
- 9. States the results.***

## **Open Meeting Law**

The state open meeting law is very specific, and you should familiarize yourself with its provisions (see the League publication "You as a Public Official"). The law provides very simply that, with a few limited exceptions, all meetings of a public body must be open to all persons desiring to attend. Notices of the date, time and place of every meeting are required, and you must make available an agenda for each meeting at least 24 hours in advance. There are exceptions for emergency meetings. When an actual emergency is found to exist, a meeting can be called with notice appropriate under the circumstances.

The American with Disabilities Act requires that all public activities, including public meetings, be accessible to persons with disabilities. The notice for a public meeting should also contain information on how a person with a disability can go about receiving reasonable accommodations, such as a sign language interpreter, so that he or she can participate.

No legal action can be taken by the council except in a public meeting. If you hold work sessions, these meetings must be open to the public. Citizens are wary of behind the scenes decision making, and you should make sure that adequate discussion of all matters before the council occurs at the regular council meeting.