

Governing with confidence: reducing risk for councils and boards

By Kim Dennis

Good Governance, Lower Risk

Council and board members play a vital role in shaping public policy and overseeing municipal operations. While acting in their official legislative capacity, council and board members are afforded some legal immunity, however, those protections are limited. Decisions made by councils and governing boards can expose both individuals and members to liability if legal requirements and ethical standards are not followed. Understanding common risk exposures and implementing effective controls is essential to sound governance.

Common Liability Exposures

Liability exposure may arise from land use decisions, conflicts of interest, violations of the [Open Public Meetings Act \(OPMA\)](#), Competitive Bid Laws, the [Appearance of Fairness Doctrine](#), and the [Public Records Act](#). Councils and boards may also face exposure related to personnel matters, including allegations of employee interference, discrimination, or harassment. Even well-intentioned actions can result in claims if procedures are not followed or decisions appear biased or unsupported.

Understanding Governing Roles

Councils and boards act in both legislative and quasi-judicial capacities, and the standards for each differ significantly.

When acting in a quasi-judicial role, such as zoning changes, permit appeals, or other land use matters, members must comply with the Appearance of Fairness Doctrine. Decisions must be fair, impartial, and based solely on the record presented during the public hearing. Ex-parte communications with applicants or interested parties outside of the hearing process must be avoided, and no preferential or discriminatory treatment may be given.

In the legislative role, councils and boards have the power to adopt budgets and implement laws and policies regulating local and municipal matters. This is typically accomplished through the enactment of ordinances and resolutions. Councils and boards also retain authority to approve contracts and pay claims. Purely legislative decisions are subject to normal political debate and citizen input.

In all cases, actions should be supported by a clear record and written findings when appropriate. Decisions must serve a legitimate governmental purpose, such as protecting public health, safety, morals, or the environment. Public office may not be used for private gain.

Training and Best Practices

State law requires governing body members to complete training on OPMA, public records disclosure, and records retention within 90 days of assuming office, with refresher training required every four years. Additional training on the Appearance of Fairness Doctrine is strongly recommended.

WCIA encourages the use of a Hearing Examiner for land use matters. Hearing Examiners conduct quasi-judicial hearings, prepare written findings, and issue decisions or recommendations based on the hearing record. Their use can reduce allegations of bias and streamline the decision-making process.

WCIA offers council and board orientations and can assist in facilitating land use training through our Risk Management Training Allowance program. Additional resources are available through the Association of Washington Cities (AWC), the Washington State Attorney General's Office, the Municipal Research and Services Center (MRSC), and the Washington State Department of Commerce.

Conflicts, Bidding, and Personnel Matters

Conflicts of interest are governed by the state's constitution, statutes, and common or case law. The Municipal Code of Ethics is contained in chapter [42.23 RCW](#) with specific acts set forth in [RCW 42.23.070](#). Council and board members must disclose both direct and remote conflicts and recuse themselves when impartiality could be questioned.

Members should also be familiar with Competitive Bid Laws under chapter [39.04 RCW](#) to ensure public funds are spent lawfully and responsibly.

Finally, councils and boards must respect governance boundaries in personnel matters. Employee supervision and discipline are typically the responsibility of the mayor, city manager, or agency director. Interference with staff or discriminatory conduct may result in personal liability and expose the entity to significant risk.

Strong governance practices not only reduce liability—they reinforce public trust and confidence in local leadership.

Please contact your assigned WCIA Risk Representative with any questions.

Resources:

[Washington State Department of Commerce Short Course on Local Planning](#)

[AWC Events & Education](#)

[MRSC](#)

[Washington State Office of the Attorney General](#)

[WCIA Liability Resource Manual ADM.02 City Council](#)

