

OSB GOVERNMENT LAW SECTION & OREGON CITY ATTORNEYS ASSOCIATION
THE GOVERNMENT LAW REVIEW
FRIDAY, SEPTEMBER 27, 2019 Sunriver Resort, Oregon

Governing Bodies in Conflict
10:45 to 11:45

If we have time after the panel presentation and scenarios presented by panel members, here are some additional possible scenarios to consider:

Hypothetical A

Your city manager is taking full advantage of your city's manager ("CM") form of government. The CM is enterprising but too much so according to some elected officials. She's taking the city directions that many elected officials question, and by ignoring their protests has created a majority among the council that want to call for her termination. The mayor is among the minority.

Council calls for an executive session and the CM wants an open hearing.

1. What will you advise the council as to what can be said about private employee matters?
2. Does the employee have a right to speak at the executive session?
3. Do you talk to all of the councilors if you can not trust that they will honor confidentiality?

The CM refuses to leave after a vote of the councilors. ORS 30.510 An action at law may be maintained in the name of the state, upon the information of the district attorney when any public officer, civil or military, does or suffers an act which, by the provisions of law, makes a forfeiture of the office of the public officer.

1. The DA refuses to prosecute your Quo Warranto because the matter has political implications. What do you do?
2. You are hired by the CM instead of by the Council. How do you advise her? Do you have a conflict?

Hypothetical 2:

Some on the council are unhappy about the performance of and about personal complaints against an employee/officer under the supervision of the city manager. Your city is a manager form of government and ordinances that state stay out of CM operations. The charter, however, allows the council to create the office which the employee holds. What issues are presented by council efforts to have a performance evaluation of an employee other than the CM?

Hypothetical 3:

Your city has a dispute with a contractor(s) that involves a highly controversial matter and has a high potential for litigation or it may even be in the midst of litigation. One maybe two of your councilors was elected on a platform that took a position on the controversial matter. You are in vital need for executive session but you can not trust that the spirited councilors will honor confidentiality? What do you do?