



# **ESSENTIAL SKILLS**

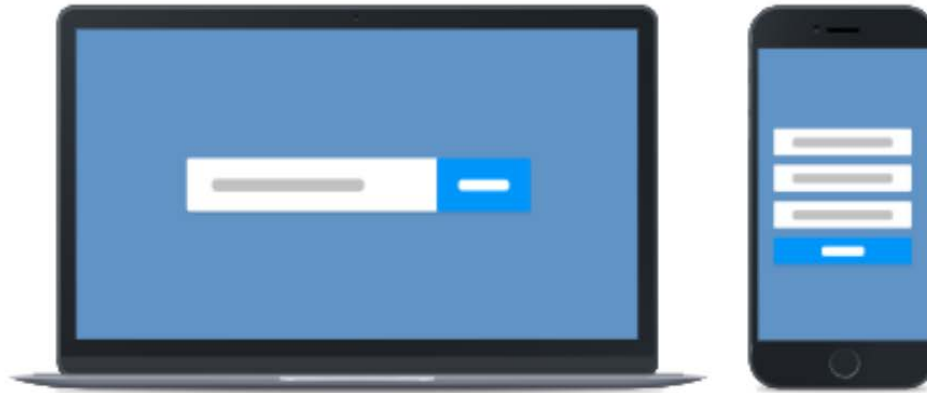
## **Developing the City Attorney and City Council Relationship**

Presented by the Attorney Development and Succession Committee  
with help from a few friends

2019 Spring Conference  
May 8, 2019

# How to join

## Web



- 1 Go to **PolLEV.com/CACITIES**
- 2 Respond to activity

# ORIENTING NEW COUNCIL MEMBERS

**Answer This Polling Question!**

**Have you ever given advice that you had to correct the next day?**



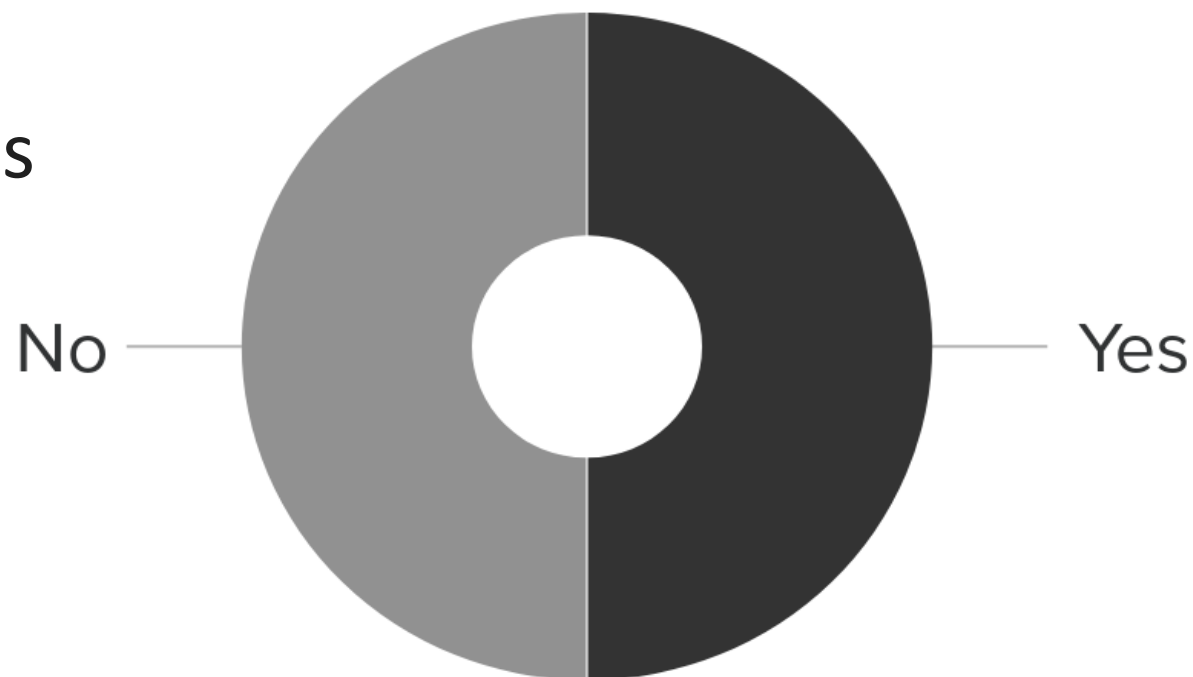
Respond at [Pollev.com/cacities](https://Pollev.com/cacities)

# Have you ever given advice that you had to correct the next day?

Yes No



Respond at  
[Pollev.com/cacities](https://Pollev.com/cacities)



# ORIENTING NEW COUNCIL MEMBERS

## *Vignette 1*





Is it too late to go to  
Business School?

# ORIENTING NEW COUNCIL MEMBERS

- Meet early with new council members to:
  - Encourage early AB 1234 ethics training;
  - Provide basic parliamentary procedures, if needed;
  - Discuss governance laws like Brown Act and Political Reform Act;
  - Introduce substantive subjects like land use
- Trainings and materials from League and Institute of Local Government
- Examples of orientation materials provided

# ORIENTING NEW COUNCIL MEMBERS

- Attorney for the city -- not individual council members or staff
- State Bar Rule 1.13(a) -- *A lawyer employed or retained by an organization shall conform his or her representation to the concept that the client is the organization itself, acting through its duly authorized directors, officers, employees, members, shareholders, or other constituents overseeing the particular engagement.*
- May not be able to keep individual council member comments in confidence
- Policy about when you will share advice with entire council



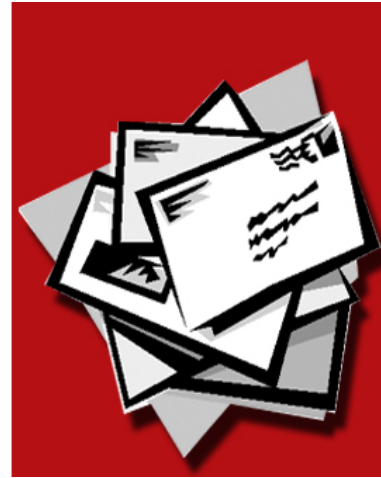
# ORIENTING NEW COUNCIL MEMBERS

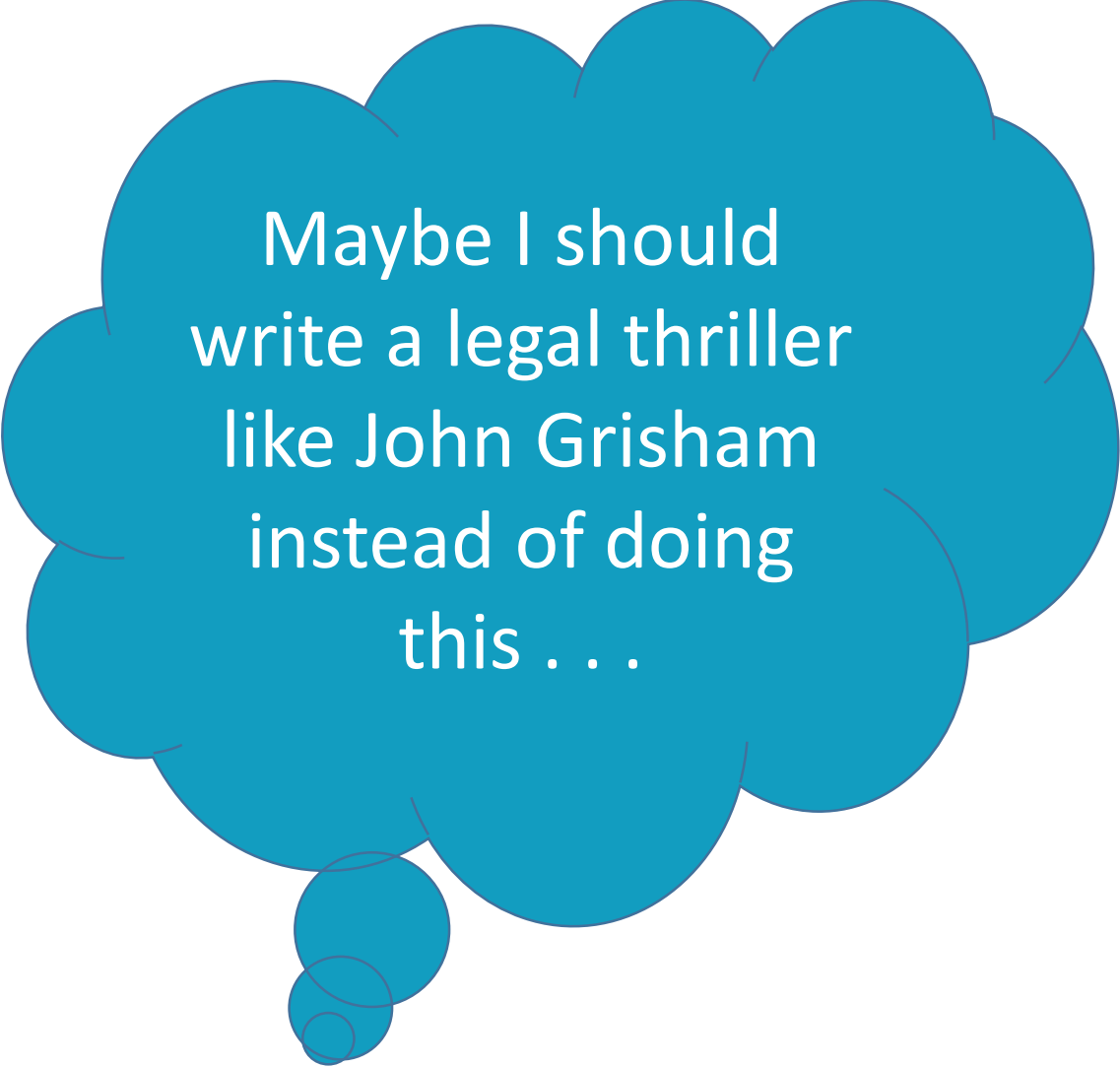
- Explain reasons for advice and possible negative consequences; avoid legalese; and provide options if possible
- Discuss early so foster open door communications with council
- Do the right thing even if awkward or embarrassing

# ORIENTING NEW COUNCIL MEMBERS

*Vignette 2*

**Letters To The  
EDITOR**





Maybe I should  
write a legal thriller  
like John Grisham  
instead of doing  
this . . .

# ORIENTING NEW COUNCIL MEMBERS

- Take a breath when someone has imposed a deadline
- Council minority – how does city attorney and city manager handle?
- Dealing with “rogue” council member

# ORIENTING NEW COUNCIL MEMBERS

- Are there options that you can propose; e.g. reconsideration
- Policy on how much work a council member can ask of city attorney  
(*City Attorneys' Department Ethical Principle 3*)
- Again, what is policy for sharing work with the entire council

# ORIENTING NEW COUNCIL MEMBERS

- Slippery slope arguments in “helping” one council member
- Deflecting if not legal work
- What do you do if you wake up the next morning and feel like you didn’t do the right thing?

# ORIENTING NEW COUNCIL MEMBERS

*Vignette 3*

**CONFIDENTIAL**



I wonder how  
my 401K is  
doing today.



When does my  
pension vest?



# ORIENTING NEW COUNCIL MEMBERS

- Be careful of personal issues with council members – boundaries are good
- State Bar Rule 1.8.3 -- *lawyer shall not solicit a client to make a substantial gift, including a testamentary gift, to the lawyer or a person related to the lawyer. . . .*
- Cal. Gov't Code section 89503 prohibits city attorneys from accepting gifts from single source of more than \$500 in calendar year and report gifts of \$50 or more

# ORIENTING NEW COUNCIL MEMBERS

- Written memos not only form of communication with council members
- Use short answer/summaries and headings and bullets
- Ways to limit disclosure of confidential information in closed session
  - “Confidential/attorney-client privilege” banners and headings on each page
  - If provide materials in advance, include just background information
  - Allow council members to view materials in office ahead of time
  - Send confidential emails with secure, encrypted service e.g. Identillect.com
  - Collect written materials handed out during closed session

# ORIENTING NEW COUNCIL MEMBERS

- State Bar Rule 1.13(b) -- *if a lawyer representing an organization knows that a constituent is acting, intends to act or refuses to act in a matter related to the representation in a manner that the lawyer knows or reasonably should know is*
  - (i) a violation of a legal obligation to the organization or a violation of law reasonably imputable to the organization, and*
  - (ii) likely to result in substantial injury to the organization,**the lawyer shall proceed as is reasonably necessary in the best lawful interest of the organization.*
- Remind council of negative consequences of disclosing confidential info:
  - Undermine city's position
  - Significant financial ramifications
  - Council censure – public embarrassment
  - Criminal violation and referral to grand jury (Gov't Code section 54963)

Answer This Polling Question!  Respond at [PollEv.com/cacities](https://PollEv.com/cacities)

***What other “essential skills” topic would you like to see as a presentation at a League conference?***

**Communications**

[e.g. avoiding legalese]

**Media**

[relationships with media; crisis communications; media during litigation]

**City-Manager**

[relationship with city manager; new city managers; challenges]

**Budget**

[developing office budget; advocating for additional funding]

**Outside-counsel**

[e.g. expectations; effective use]

**Succession-planning**

**Inhouse-contract**

[differences between in-house practice and contract city attorney practices]

**Conflict-resolution**

**Networking**

**Other?**

[type in your one word answer]

What other "essential skills" topic would you like to see as a presentation at a League conference?



A word cloud visualization of the poll results. The words are arranged in a cluster, with 'leadership' and 'media' being the largest. Other visible words include 'dealing', 'budget', 'skills', 'conflict-resolution', and 'dealing-with-the-media'. The colors of the words vary, including shades of green, brown, purple, and blue.

leadership media  
"dealing" media  
dealing  
skills budget  
conflict-resolution  
dealing-with-the-media