

# **ESSENTIAL SKILLS WEBINAR** Developing the City Attorney and City Manager Relationship

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

July 29, 2020

### Housekeeping Notes

1. All attendees have been muted upon entry.

2. This webinar is being recorded.

3. If you are having technical difficulties, please use the Q+A function in your Zoom toolbar to ask for help. Someone will assist you.

4. We will take questions and comments at the end of the presentation.

5. The slides and recording will be available to download within the week.

# Attorney Development and Succession Committee



#### Focus Areas

- outreach to law schools to develop the pipeline of municipal attorneys;
- facilitate trainings in the canon of municipal law; and
- help develop the diverse set of technical, practical and interpersonal skills necessary to succeed in a City Attorney's Office.

#### Presenters for Today

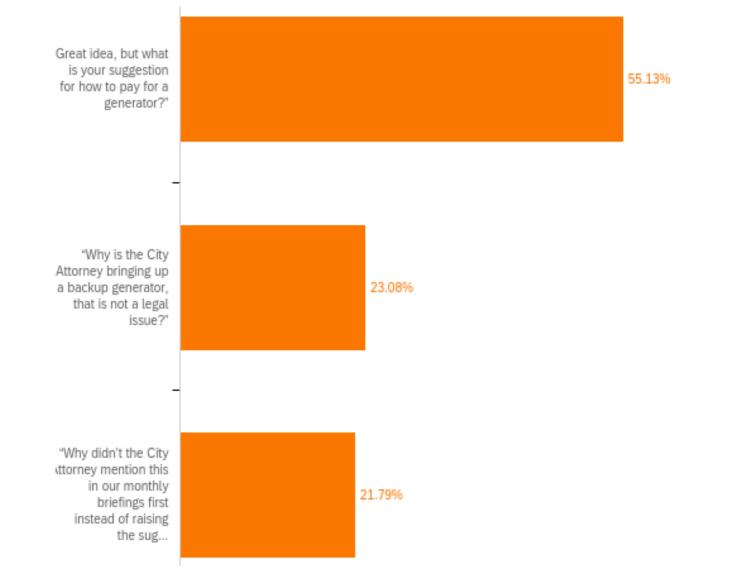
- Michael Guina, City Attorney, Emeryville
- Lauren Langer, Best, Best & Krieger and Assistant City Attorney at Lomita, Hermosa Beach and West Hollywood
- Eric Danly, City Attorney, Petaluma
- Dave Fleishman, City Attorney, Pismo Beach and with the law firm of Richards, Watson & Gershon
- Jennifer Mizrahi, City Attorney, Desert Hot Springs and with the law firm Stream Kim, Hicks, Wrage & Alfaro
- Joe Montes, City Attorney, Alhambra and Santa Clarita and with the law firm Burke, Williams & Sorensen

If you are a City Attorney, please respond to the poll. If you are not, please refrain from taking the poll.

Having just attended the League's program on Disaster Preparedness, the City Attorney suggests at an executive staff meeting that City Hall should have a backup generator. The City Manager's initial thought is:

- "Great idea, but what is your suggestion for how to pay for a generator?"
- "Why didn't the City Attorney mention this in our monthly briefings first instead of raising the suggestion in front of all of the department heads?"
- "Why is the City Attorney bringing up a backup generator, that is not a legal issue?"

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Comments about Question 1

What's the Role of the City Attorney?

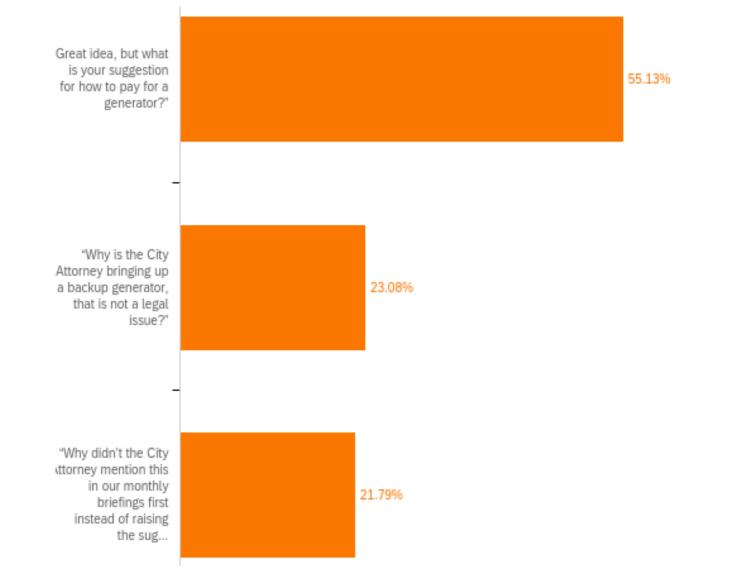
Show Me the Money!

**Political & Other Non-Legal Considerations** 

**No Surprises** 

So What's the Plan?

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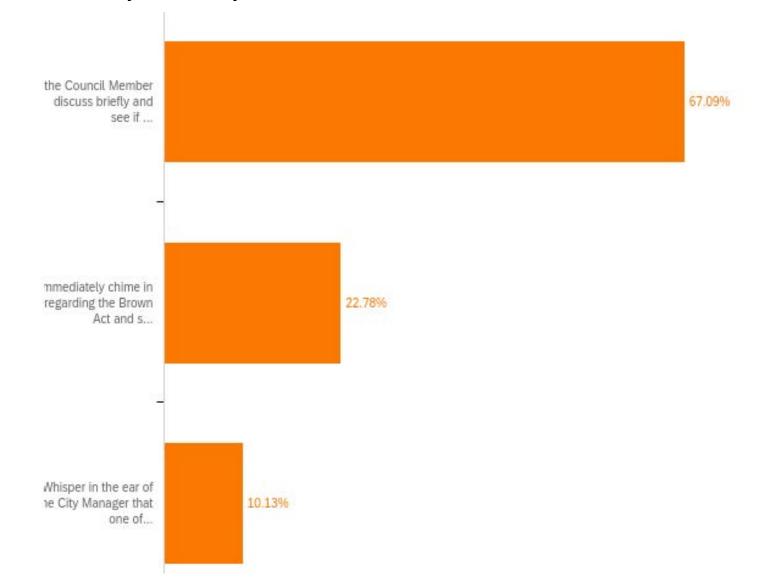


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During the Council Meeting, a Council Member brings up an item that is not on the agenda, should the City Attorney:

- "Immediately chime in regarding the Brown Act and suggest that the Council only consider whether to agendize for a future discussion."
- "Let the Council Member discuss briefly and see if the Council Member suggests putting the item on a future agenda."
- "Whisper in the ear of the City Manager that one of you will need to raise the Brown Act issue."

During the Council Meeting, a Council Member brings up an item that is not on the agenda, should the City Attorney:





Think Through Before the Meeting Starts (especially if you don't always cover this meeting)

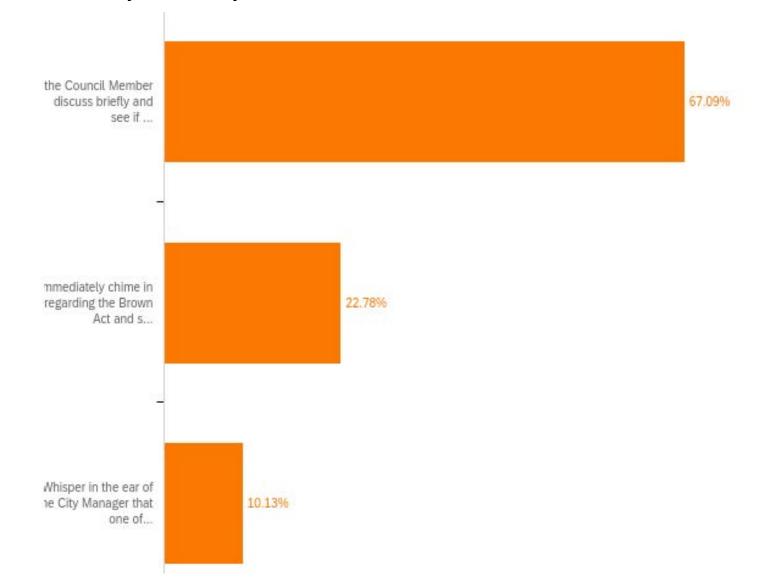
**Remember The Brown Act's Limited Agenda Exceptions** 

Get In Sync With The City Manager (sit where you can see each other)

Know The City's Practice For Placing Items On Future Agendas

This is An Art Not A Science

During the Council Meeting, a Council Member brings up an item that is not on the agenda, should the City Attorney:



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In a one-on-one briefing, a Council Member mentions some frustrations with the City Manager. The City Attorney should:

- "Keep the communication with the Council Member confidential."
- "Suggest to both the Council Member and the City Manager that it would be good for them to discuss their relationship and communications."
- "Repeat the entire conversation verbatim to the City Manager."

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Survey Results: strong preference for City Attorney assistance with effective Council/Manager relations.

Relevant rules of professional responsibility: the client is the City itself; the City Attorney may have a duty to report unlawful or risky conduct to the City Council.

The City Attorney can respectfully partner with the City Manager as a peer in support of good overall relations with the Council.

The sooner -- and more directly -- frustrations and misunderstandings can be resolved, the better.

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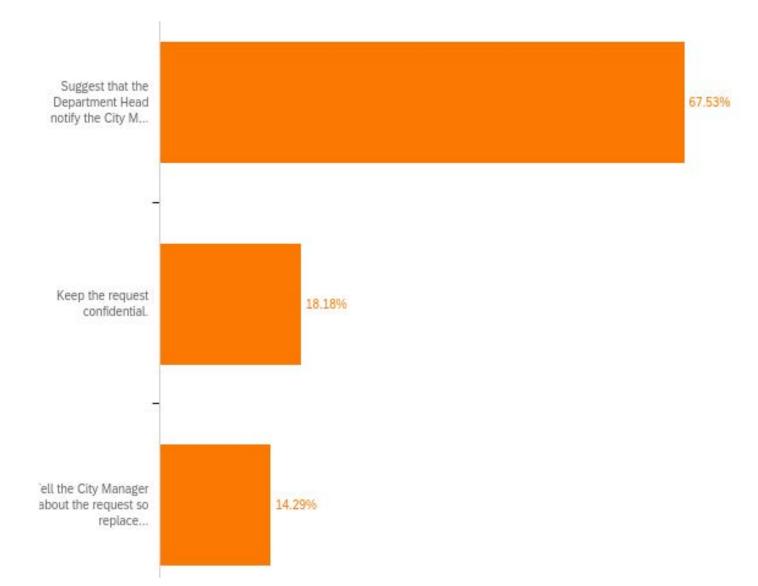


If you are a City Attorney, please respond to the poll. If you are not, please refrain from taking the poll.

A Department Head asks the City Attorney for a job reference for another city. The City Attorney should:

- "Keep the request confidential."
- "Suggest that the Department Head notify the City Manager of the job search."
- "Tell the City Manager about the request so replacement plans can be considered if necessary."

A Department Head asks the City Attorney for a job reference for another city. The City Attorney should:





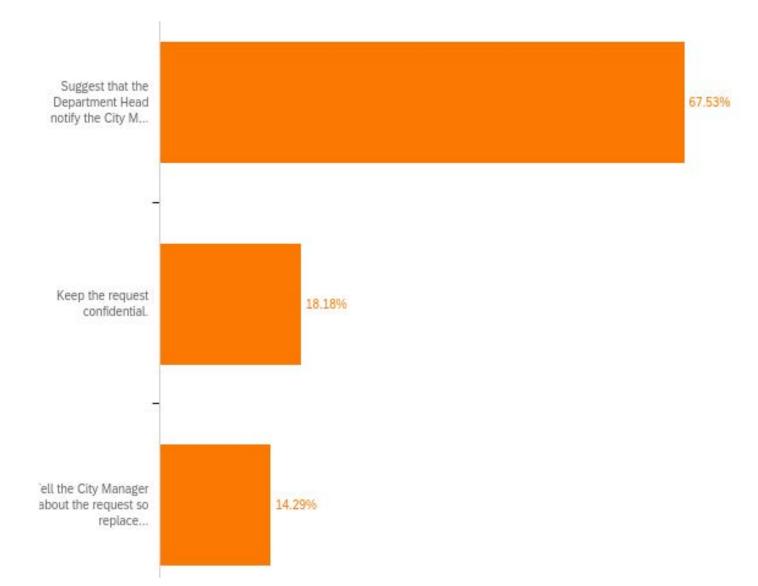
#### **The Client Comes First**

#### **City Managers Hate Surprises**

#### **City Manager May Have Different Opinion**

#### **No Promises Of Confidentiality**

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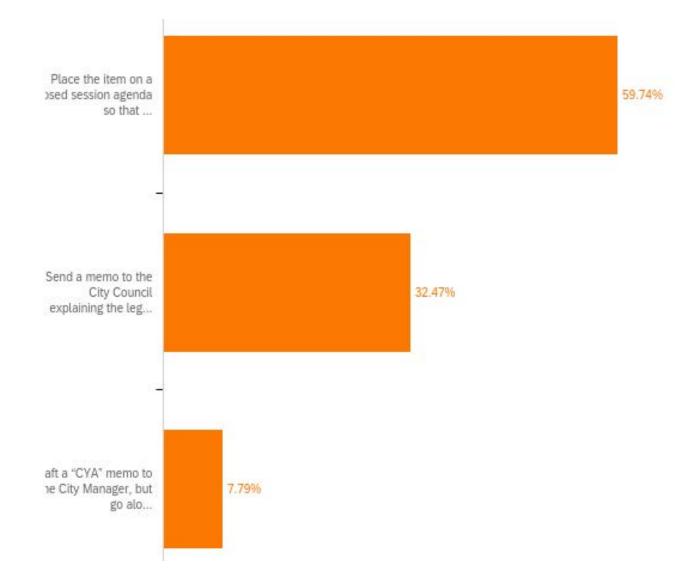


If you are a City Attorney, please respond to the poll. If you are not, please refrain from taking the poll.

The City Manager wants to "clean up" homeless encampments and does not agree with the City Attorney that the City's anti-camping laws likely violate current law. Should the City Attorney:

- "Draft a "CYA" memo to the City Manager, but go along with the enforcement."
- "Send a memo to the City Council explaining the legal concerns and suggesting some options."
- "Place the item on a closed session agenda so that the City Manager and City Attorney can apprise and get direction from the City Council."

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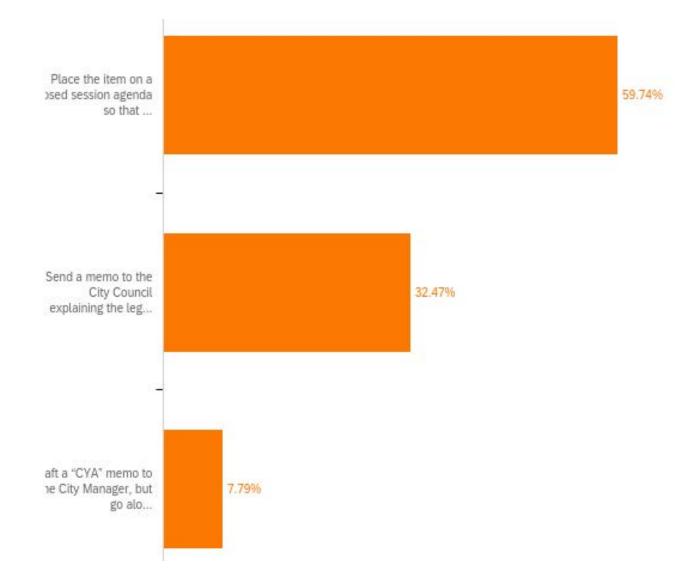
Get to know the City Manager: schedule a monthly lunch/coffee

City Managers run cities differently, but role is generally one of "results" and outcome"; not necessarily "process"

Consider: Can result be accomplished by another means? Can there be a partial or phased result?

City Managers and City Attorneys may both want guidance from City Council, but tactful in how frame issue

The City Manager wants to "clean up" homeless encampments and does not agree with the City Attorney that the City's anti-camping laws likely violate current law. Should the City Attorney:



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City staff advises the City Attorney that a Council approved development project has an error and they want to fix it by making it part of a larger code amendment process without drawing attention to the specific project. Should the City Attorney:

- "Say nothing further so as not to undermine the trust of staff."
- "Encourage staff to present the options and associated risk to their Department Head for approval, and leave to the Department Head's discretion whether or not to alert the City Manager."
- "Alert the City Manager of staff's selected approach."
- "Alert the City Manager and the Council of staff's selected approach."

Staff advise the City Attorney that a Council approved development project has an error, and want to fix it by making it part of a larger code amendment for Council to adopt without drawing attention to the specific project.





There's such a thing as being "too clever."

Sometimes the City Manager Likes to Order From the Menu.

**Confidant or Informant?** 

The Chain of Command and Stepping on Toes

**Communication Ground Work and Strategies** 

Staff advise the City Attorney that a Council approved development project has an error, and want to fix it by making it part of a larger code amendment for Council to adopt without drawing attention to the specific project.

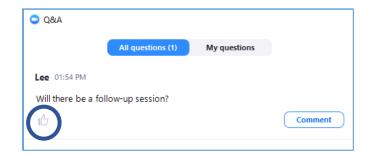


## Tell Us Your Thoughts!

Submit your ideas on future essentials skills topics through the Q+A box, located on your Zoom toolbar.



You can also "up vote" other attendee's ideas if you had a similar idea, or are interested in that topic.



## How to Ask a Question

If you plan to verbally ask your question or comment, please make sure your audio is connected. You should have been prompted to connect your audio when joining the webinar, but you can confirm by clicking the audio

settings on your tool bar.



Then, select the "Raise Hand" function. You will be called on and unmuted so that you may comment or ask a question

To write in a question, select the 'Q&A' button on your tool bar. You can also "up vote" other attendee's questions if you have the same question. This will help speakers prioritize questions during the Q&A portion of the presentation.

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