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## **Perspectives on the New San Juan County Charter and Further Definition of the Roles under the New Charter**

**By Bob Myhr, Council Member, District 6**

(This article is based heavily on material from the Municipal Resources Services Center (MRSC) entitled “Knowing Your Roles: Resolving and Preventing Conflicts Between Mayors and Councils”; Randy Gaylord’s “Analysis of the San Juan County Charter,” revised version (originally dated November 30, 2005); extensive reference to the new San Juan County Charter; and research by the author, who takes full responsibility for the perspective herein expressed. The intention of this article is to help establish an understanding and a smooth transition to and operation of new Charter government in San Juan County.)

### **The Three Branches of San Juan County Government**

Like the federal and state governments, San Juan County government's powers under the new Charter are delegated by the people into three separate branches: legislative, executive, and judicial. The right to oversee the functions of government shall be retained by the Citizens of the County [Charter Section 1.50].

The Council is the legislative branch and somewhat analogous to the state legislature or the Congress.

The Elected Officials (County Assessor, Auditor, Clerk, Treasurer, Prosecuting Attorney, and Sheriff) [Charter Section 3.20 (1)] and the County Administrator (not elected by the people, but hired as an at-will employee by the Council [Charter Section 3.40]), together, are the executive and administrative group of officials that make up the executive branch, collectively, somewhat analogous to the governor and the President *and* their

respective elected officials or appointed Cabinet members. It should be pointed out that a “plural” executive and administration remains because seven (7) officials, six elected and one appointed, perform the functions of the executive branch under the Charter.

County Departments are administrative departments that carry out some of the functions of our County government and are somewhat analogous to state and federal government departments. They are managed by Department Heads who are appointed by the County Administrator and confirmed by the County Council. [Charter Section 2.60] These Departments include: Administrative Services, Community Development and Planning, Health and Community Services, Fair, Parks, Public Works, WSU Extension Service. The Land Bank does not report to the County Administrator, because the Land Bank has been established under provisions of state law and special local ordinance. The Land Bank Commission is a semi-autonomous agency that has its own funding and reports directly to the County Council.

The district and state courts exercise the judicial functions [Charter Section 11.50 (c)].

### **Separation of Powers**

Under the "separation of powers doctrine," each of the three branches exercises certain defined powers, free from unreasonable interference by the others; yet all three branches interact with each other as part of a "checks and balances" system. The powers of these branches in County government are defined by the County Charter and by state statute. Within the executive branch itself, there remains a separation of administrative powers because the seven officials cannot unreasonably interfere with the actions of the others.

### **The County Council**

The County Council is the legislative branch of San Juan County and has the power to enact laws and policies, consistent with the San Juan County Charter and state law, and regulate County affairs, through the enactment of motions, resolutions, and ordinances. In general, the Council's authority includes the specific authority to:

- . Levy taxes, appropriate revenues, and adopt County budgets [Charter Section 2.30 (2) (a)]
- . Define the powers, functions, and duties of non-elective County offices and executive departments and employees.
- . Fix the compensation of non-elective officers and employees.
- . Appoint four (4) of the ten (10) members to the Citizen Salary Commission (the remaining six (6) are chose by lot from the voters [RCW 36.17.024]).
- . Appoint members of other state-statute mandated County commissions or County advisory committees.
- . Establish the working conditions of officers and employees.
- . Maintain retirement and pension systems.
- . Impose fines and penalties for violation of County ordinances.
- . Approve contract-level values for signature by the County Administrator.
- . Regulate the acquisition, sale, ownership, and other disposition of real property.
- . Provide governmental, recreational, educational, cultural, and social services.
- . Impose taxes, if permitted by state law.
- . Cause the County to own and operate utilities.
- . Approve claims against the County.
- . Appoint a County Administrator and Administrator Pro Tempore
- . Perform annual evaluation and performance review of the County Administrator
- . Conduct public hearings on matters of public concern

- . Enact rules governing Council procedures, including for public meetings and hearings.
- . Hire and employ the Council staff.

### **The County Administrator**

The County Administrator is the chief administrative officer of the County in charge of carrying out the policies set by the County Council. The County Administrator is basically in charge of those day-to-day operations of the County not being performed by the offices of the Elected Officials, including the supervision of non-elective administrative officers and employees. The County Administrator is in charge of hiring and firing all non-elective administrative officers and employees, except Council staff, subject, where applicable, to laws regarding civil service or state statutes. The County Council has authority to require confirmation of the appointment of certain officials; the Council may not, however, require confirmation of personnel dismissals by the County Administrator.

In general, the County Administrator has the following authority to:

- . Manage all non-elective administrative offices and functions [Charter Section 3.43 (1) (a)], except Council staff [Section 2.40 (2)]
- . Ensure all actions of the Executive Branch are compliant with all federal, state, county codes budgets [Charter Section 2.30 (2) (b)]
- . Insure that optimum practices for the administrative use systems, procedures, and technology budgets [Charter Section 2.30 (2) (ac)]
- . Appoint Department Heads, subject to approval of the Council
- . Approve managers appointed by Department Heads
- . Enforce contracts.
- . Request special meetings of the Council.
- . Prepare an annual proposed operating and capital budgets. [Charter Section 2.30 (2) (e)]

- . Report at least quarterly to the Council on the financial and other affairs and needs of the County.
- . Act as signing authority for the County on all claims, deeds, contracts, and other instruments initiated within the fiscal and budgetary procedures approved by the Council [Charter Section 2.30 (2) (e) and 3.43 (1) (g)]

### **The Relationship between Council and Administrator**

The County Administrator and County Council can work together as a team for the management of county government. Consistent with the separation of powers doctrine, however, the Council cannot interfere with the County Administrator's management of the administrative branch of County government. Council Members may not give orders to Department Heads or to other County administrative employees. Generally, the Council can deal with the County Administrator concerning matters of County administration, except that it may deal directly with officers and employees under the County Administrator's direction "for the purpose of inquiry." To do its job, the Council needs information on how the County is operating. The County Administrator, either directly or through other County officers or employees, shall provide that information and shall do so in a timely and useful fashion

Ideally, working as a team, the County Administrator will focus on administration (tactics and execution) of the policy (strategy and policy guidelines) determined by the Council. However, at times the line between policy and administration may in some situations be blurred and imprecise. In these situations the Administrator and Council will want to work carefully together to eliminate any misunderstanding. One area might be personnel. The Council may not like a County Administrator's appointment to a particular position or it may be dissatisfied with the performance of certain officers or employees. An employee may complain to, and seek relief from the Council about some aspect of employment. On the other hand, the County Administrator may believe that certain personnel policies interfere with his or her supervision of employees and hiring and firing authority

Keeping in mind the respective roles of the County Administrator and the Council and understanding the limitations of their respective authorities can help. For example, if the Council is not happy with a County Administratorial appointment of a Department Head, the Council need not

confirm the appointment. The Council has the authority to confirm all administrative Department Heads, and it can reject the appointee and ask the County Administrator to choose another [Charter Section 3.50]. On the other hand, the Council does not have confirmation authority, for example, for the appointment of managers within a Department. It may express its dissatisfaction to the County Administrator, but it can and should do nothing else with respect to that particular appointment. The Council does, however, have authority to provide for a detailed personnel system establishing specific qualifications for positions, creating affirmative action policies, requiring publication and public posting of job opening announcements, and the like budgets [Charter Section 2.30 (2) (b-c)]

Moreover, the County Administrator is required by the Charter to make appointments “based on their abilities, qualifications, integrity, and prior experience” budgets [Charter Section 3.51]

Similarly, if the Council feels that an officer or employee is performing poorly and should be disciplined or fired, it can say so to the County Administrator, but it can and should do nothing else. Although it controls the salaries paid to non-elective County administrative officers and employees, it may not lower a salary so as to cause and with the purpose of causing the person holding that position to quit. A rule to follow is that neither the Council nor the County Administrator may do indirectly what it cannot do directly.

On the issue of good communication between the Council and County officers and employees, the County Administrator should help Council Members gain as much information as possible. If Council Member inquiries of County employees serve to harass those employees or unreasonably take them away from their duties, the County Administrator should request those inquiries to be channeled through the County Administrator's or a Department Head's office, if that can be done without unduly encumbering Council access to information.

Another area that that will require care is that of finances and budgets. For example, the County Administrator may not take full advantage of the budget authorized by the Council. The Council may authorize a certain position at a certain salary, and the County Administrator may decide either not to fill the position or may do so at half-time and half salary. The County Administrator may cite financial exigencies, such as revenues falling short

of projections, and may conclude that the County cannot afford someone filling this position full-time. The Council, on the other hand, may not agree that the conditions warrant such action or may determine that a different cost-saving measure is appropriate and should be instituted. Again, full and complete dialogue between the Administrator and Council is in order.

Resolution of this type of issues must be handled with care. Although the County Administrator may not pay an employee less than that authorized by the Council in the budget, the County Administrator, under certain financial circumstances, may be able to partially fill a position, proportionately reducing the salary for the position. The best strategy would be for the County Administrator and the Council to work out a mutually agreeable accommodation. Moreover, the Charter [Charter Section 2.31 (2)] provides for the Council and County Administrator to agree upon procedures for interaction between the Council, Administrator and Elected Officials for the smooth operation of County government.

There are other issues that will likely arise (and that have arisen in other jurisdictions) where it is not clear whether the County Administrator has the authority to act or whether the Council does. In these situations, the Council and the County Administrator should first analyze the issue, perhaps seeking counsel of the County prosecuting attorney, the consultants at MRSC, or other experts.

### **Relationship between the Elected Officials and Administrator**

There are also issues that can arise *within* the executive branch where it is not clear whether the County Administrator has the authority to act or whether the Elected Official does. Ideally, the County Administrator and the Elected Officials will work together as a collective management team. However, things may not always run smoothly between the Elected Officials and the County Administrator, and the line between where their respective responsibilities begin and end may in some situations be unclear and imprecise. One area, again, is budgeting for personnel. With the “plural” executive branch of seven (7) officials, six elected and one appointed, performing the duties of the executive functions may be in conflict. Management of the preparation of the budget or operation of accounting systems is one is that may find differences within the executive branch. The County Administrator prepares the annual budget that includes the level of expenditures within the budgets of the Elected Officials, and there may

disagreements over the levels of staffing and planned expenditures between the County Administrator and the Elected Officials. Similarly, how accounting issues are handled may be a source of disagreement. There remains a separation of executive powers within the executive branch, because the seven officials cannot reasonably interfere with the actions of the others, and that can create conflicts and misunderstandings. Again, cooperative work together can help resolve issues that may arise.

### **The Need for Flexibility and Understanding for Good Government**

Understanding roles is a necessary step in resolving many such conflicts. However, when the roles are not clearly defined in a particular situation, compromise may be in order. Statutes and case law may not provide a ready answer. All sides need flexibility to meet the challenges of a functioning and dynamic County government. If the focus is on providing good government rather than on turf wars, the Council Members, County Administrator, Department Heads, Elected Officials, and managers can better fulfill their roles as public servants. Accomplishing good government will be the focus of San Juan County government.