

MEMO FROM THE MAYOR

SUBJECT: The Proper Role of Government at the Local Level, Part 3

At a Glance:

- **POLITICAL POWER INHERENT IN THE PEOPLE.** All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the legislature.

Art. I, Sec. 2 of the Idaho State Constitution, Declaration of Rights.

- If a nation expects to be ignorant and free, in a state of civilisation [sic], it expects what never was and never will be.”

Thomas Jefferson (1816)

- Energy in the executive is a leading character in the definition of good government.

Alexander Hamilton (1788)

So, If All Political Power Is Inherent in the People, Why Don't You Do What I Say?

Municipal governance in Idaho models itself after the republican constructs of our federal and state governmental forms. In other words, at the municipal level, we see the “executive, legislative and judicial branches” at work, along with a separation of powers. We simply do not see them in quite the same way as we observe at the federal or state levels. Nevertheless, we still have checks and balances operating, just like those “Big Governments”. This is quite different from county government. There, the three commissioners undertake all three responsibilities.

Sadly, all too many folks forget their civics and government classes addressing how the American system works. The first thing most miss in every day civics conversations centers on the fact our government is not fashioned as a democracy. So, when you see the politicians on television crying crocodile tears about how our “democracy” is being destroyed, take solace in the fact that there is no democracy to destroy. Our republic, yes; that IS being destroyed by those same politicians crying the crocodile tears. But our “democracy”? No, not so much.

At the federal and state level, the separation of powers comes about from the division of responsibilities between the branches of the Executive (President/Governor), the Legislative (Congress/Legislature) and the Judicial (all federal and state courts). Checks and balances occur when each branch has specific powers and responsibilities, which can be put in “check” by the

other branches. For example, a President may want Congress to send several palates of Federal Reserve notes to Ukraine, but Congress does not appropriate it. Or, Congress may want to require every other adult to go to debtors' prison until the per capita payment of \$94,082 for every person living in the U.S. is paid to retire the current national debt of \$31.5 trillion. Should the president sign the law into effect and not veto it—which is the primary check by the executive on the legislative—we would expect SCOTUS to conclude such a scheme is unconstitutional for a host of reasons. Yet, with the current makeup of SCOTUS, one never knows where the wind will blow Chief Justice Roberts.

At the municipal level, the mayor fills the executive function and the city council performs the legislative function. Further, in narrow limited areas, the council might fulfill a judicial function, such as hearing an appeal from the Planning and Zoning Commission. Hence, when it comes to the mayor and council, the system of checks and balances compels a close, but still, an appropriate working relationship. If they work at cross purposes, the result often ends in political infighting and governmental paralysis. The most effectively and efficiently governed cities are those in which the mayor and council work as a team; one that seeks to advance the best interests of their community as a whole under a representative government paradigm—which is why the squeaky wheel doesn't win.

That has generally been the case in Emmett since 2015 when this writer was initially appointed mayor. Further, the team work and collegiality has continued for the most part when all players understood their roles and decided the best agenda was not a personal one, but instead, one that makes Emmett a safe and healthy place to raise a family. In those rare instances when some council members did not understand their role, there were some rough spots, to be sure; but the vast majority of the time the council votes on all kinds of issues have been unanimous with a smattering of 4-2 and 5-1 results. It should be noted that I can count on two hands in eight years the times I have had to break a tie.

Executive Authority Is Vested in the Mayor...With A Dash of Legislative

Idaho Code Section 50-602 states: The mayor...shall be the chief administrative official of the city..." This language, then, makes the mayor the "chief executive." Nevertheless, there is a dash of legislative, as well, for the Code goes on to state that the mayor shall "...preside over the meetings of the city council and determine the order of business subject to such rules as the council may prescribe, [and] have a vote only when the council is equally divided..." The Code then

reverts back to the executive function by proclaiming that mayors “...have the superintending control of all officers and affairs of the city, preserve order, and take care that the ordinances of the city and provisions of [state law] are complied with and enforced.”

Major Mayoral Powers and Responsibilities Under Executive Powers

- Supervises city employees and appointed officers;
- Involved in hiring and firing *only* as the city personnel policy allows (which isn't much; firing is a process, not an event);
- Enforces laws and policies passed by the council;
- Enforces health and quarantine ordinances (*this* mayor says *provided* they're constitutional);
- Declares local disaster emergencies for up to seven days duration (council takes it up after that);
- Orders emergency holdbacks in spending by the city departments (and due to the outstanding department heads we have, this mayor has never had to do that).

Next time we will complete the other powers of the mayor, then review council powers.