

City of Russellville



City Council Rules of Procedure & Standing Rules For 2026



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City of Russellville
City Council Rules of Procedure and Standing Rules for
Calendar Year 2026
Adopted by Resolution No. 2391

Section 1. Authority, Purpose, Applicability & Interpretation.

1.1 Authority: State law provides that the City Council may determine its own rules of procedure for meetings each year so long as its rules of procedure are not contrary to state law. This is long been a recognized principle for all governmental legislative bodies that they have an inherent right to regulate their own procedure subject to provisions of a constitution or other controlling authority. The following set of rules shall be in effect upon their adoption by the City Council and until such time as they are amended or new rules adopted in the manner provided by these rules. *A.C.A. §14-43-501, AGO 95-152, 95-306, 96-328, 97-175, 62 C.J.S. Municipal Corporations §400(a) (1949), Mason's Legislative Manual Ch. 1, §2, ¶1 and Cushing's Legislative Assemblies, §1, ¶5.*

1.2 Adoption: The following City Council Rules of Procedure and Standing Rules are adopted on January 3, 2024, and shall remain in effect upon adoption by Council and until such time as amended or repealed. These rules are established by the City Council pursuant to A.C.A. §14-43-501 for the conduct of the business of the City Council. Such rules shall be enforceable amongst Council Members and the Mayor. *A.C.A. §14-43-501*

1.3 Purpose: The purposes of these rules of procedure are to subscribe to the five (5) main fundamental principles of parliamentary law:

ORDER-That is, there must be orderly procedure.

EQUALITY-That is, all members are equal before the rule or law.

JUSTICE-That is, "Justice for all."

RIGHT OF THE MINORITY-to be heard on questions.

RIGHT OF THE MAJORITY-to rule the organization.

Rules are necessary because it is dangerous to rely on the inspiration of the moment for standards of action or conduct. Hence, rules are set up for three (3) necessary purposes:

(a) *For orderly procedure.* Without it, the meeting would result in utter confusion, chaos and disorder just as would be the case in a ball game or a card game if there were no rules to go by and each player did as he pleased.

(b) *For the protection and liberty of the minority.* That is why, for instance, parliamentary law provides that "Every member shall have the right to debate main motions," and "Debate cannot be shut off except by a vote of the body," thus affording the minority freedom of speech and liberty from constraint.

(c) *For the expression of the will of the majority.* It is axiomatic that an assembly functions best when the majority rules. Hence, democratic self-government implies that the minority, however convinced of its own wisdom, consents to be ruled by the majority, until in orderly process it can make itself the majority. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1, Page 5-6.*

1.4 Applicability: These Rules of Procedure and Standing Rules are specifically written to conform to the current Arkansas state laws governing a city mayor-council member form of government. These Rules of Procedure and Standing Rules once adopted by the

City Council shall become applicable to all meetings of the City Council of the City of Russellville, Arkansas, and all meetings of all committees of the City Council of the City of Russellville, Arkansas, until repealed by the City Council. All board and commissions of the City of Russellville are free to adopt any type of procedural rules, create procedural rules or standing rules particular to their organization or use common parliamentary law principles to conduct their meetings. *Robert's Rules of Order, Newly Revised, 12th Edition, §2:14, 23-24.*

1.5 Necessity of Rules: It is necessary that every deliberative body be governed by rules of procedure in order that the will of a majority of its members may be determined and revealed in an orderly fashion. Further, every legislative body must have rules to promote the orderly and businesslike consideration of the questions that come before it for determine. A city council meeting is, after all, a business meeting of the city government to conduct and complete its official affairs of government. Therefore, these rules determine the priority and manner of consideration of questions and provide an orderly and methodical plan so that all business may receive proper consideration. Thus, confusion and waste of time and effort is eliminated. *Mason's Legislative Manual Ch. 1, §1, ¶1, 2 and Cushing's Legislative Assemblies, §1, ¶1.*

1.6 Interpretation of Rules: The various provisions and terms of these Rules of Procedure and Standing Rules are to be construed as cumulative and shall be read to conform together whenever possible. Whenever a particular specific statement of a rule of procedure or standing rule appears to conflict with a more general statement of a rule of procedure or standing rule else in these Rules of Procedure and Standing Rules, the particular specific statement of that rule of procedure or standing rule shall govern the matter to which it states it applies.

1.7 Procedure in Absence of Rule: In the absence of a Rule, the current edition of Robert's Rules of Order, Mason's Manual of Legislative Procedure or Demeter's Manual of Parliamentary Law and Procedure shall be consulted. The Chair, in consultation with the Parliamentarian shall declare the procedure to be followed, subject to appeal. Upon appeal, the Chair shall be sustained unless a majority of the Council Members of Council or of a committee, as applicable, grants the appeal, in which case the determination of the majority of City Council or of a committee, as applicable, shall govern.

1.8 Notes on Citation of Authority: Thomas Jefferson wrote on the citation of authority of his procedural manual the authority for the U.S. Senate. He stated of his use of citations within his manual, the following "I could not doubt the necessity of quoting the sources of my information...sometimes each authority cited supports the whole passage. Sometimes it rests on all taken together. Sometimes the authority goes only to a part of the text, the residue being inferred from known rules and principles. For some of the more familiar forms, no written authority is or can be cited, no writer having presumed it necessary to repeat what all are presumed to know. The statement of these must rest on their own notoriety." As far as feasible for these Rules, the text has been organized to facilitate the citation of authority at the end of each paragraph, section or subsection.

1.9 Rules of Order—Effect of noncompliance: The proceedings of the council shall be governed under these adopted Rules of Procedure and Standing Rules on all matters pertaining to parliamentary law; but no ordinance, resolution, order, proceeding or any act of the City Council shall be invalidated, or the legality thereof affected, by the failure or omission to observe or follow such Rules of Procedure and Standing Rules.

Section 2. Form and Authority of Municipal Government.

2.1 Body Corporate and Politic. The City of Russellville was incorporated on June 7, 1870, is a city of the first class and is declared under the laws of the State of Arkansas to be a body politic and corporate, under the name and style of “The City of Russellville”, capable to:

- (a) Sue and be sued;
- (b) Contract and be contracted;
- (c) Acquire, hold and possess real and personal property;
- (d) Associate with only municipalities for the promotion of the common welfare;
- (e) Join with other municipalities in the purchase of equipment, supplies and services;
- (f) Have a common seal and change and alter it at pleasure; and
- (g) Exercise such other powers and have such other privileges as are incident to other corporations of like character or degree, not inconsistent with the general laws of the State of Arkansas. *A.C.A. §14-54-101*

2.2 City Council: (a) The corporate authority of the City of Russellville shall be vested in one (1) principal officer, to be called the Mayor, and one (1) board of Council Members, to be called the City Council, together with such other officers as are mentioned in this general provisions of the state laws concerning governments of municipalities or may be created under its authority. *A.C.A. §14-42-102.*

(b) The City Council shall possess all the legislative powers granted to it by the State of Arkansas and other corporate powers of the city not prohibited in it or by some ordinance of the City Council made in pursuance of the provisions of the laws of the State of Arkansas and conferred on some officer of the city. *A.C.A. §14-43-502(a)*

(c) The City Council shall have the management and control of finances, and of all the real and personal property belonging to the corporation. *A.C.A. §14-43-502(b)(1).*

2.3 Mayor: (a) The Mayor shall be ex officio president of the City Council and shall preside at its meetings. *A.C.A §14-43-501(b)(1)(A)*

(b) The Mayor shall have a vote to establish a quorum of the City Council at any regular meeting of the City Council and when his or her vote is needed to pass any ordinance, bylaw, resolution, order, or motion. *A.C.A §14-43-501(b)(1)(B)*

(c) The Mayor of any city of the first class shall, in addition to the powers and duties already pertaining to that office, be clothed with, and exercise and perform, the following *A.C.A §14-43-501(e):*

(d) A Mayor may veto, within five (5) days, Sundays excepted, after the action of the City Council thereon, any ordinance, resolution, or order adopted or made by the City Council, or any part thereof, which in his or her judgment is contrary to the public interest. *A.C.A §14-43-501(e)(1)*

- (1) In case of a veto, before the next regular meeting of the City Council, the Mayor shall file in the office of the City Clerk-Treasurer, to be laid before that meeting, a written statement of his or her reasons for so doing. *A.C.A §14-43-501(e)(2)(A)*
- (2) An ordinance, an order, or a resolution or part thereof, vetoed by the Mayor is invalid unless, after the written statement is laid before it, the City Council, by a

vote of two-thirds ($\frac{2}{3}$) of all the Council Members elected thereto, passes it over the veto. *A.C.A. §14-43-501(e)(2)(B)*

(e) The Mayor does not have the power of veto in circumstances prescribed under §14-43-501(a) or §14-43-411(a). *A.C.A. §14-43-501(e)(3)*.

2.4 Separation of Powers: (a) The duties of a city are often as much in the executive field as the legislative. The powers of a City Council are not limited to legislative functions. It has many duties which are administrative and ministerial. *Laman v. McCord 245 Ark. 401, 408-409, 432 S.W.2d 753, 757 (Ark. 1968)*.

(b) The doctrine of separation of powers applied at the state level is not usually applied to municipal corporations and has never been regarded as fully appropriate in the performance of municipal functions. *McQuillin, Municipal Corporation, ss 9.20, 10.3 and 16 C.J.S. Constitutional Law s 106, p. 489*. It has not been the practice in Arkansas to separate these powers to any great degree. *Laman v. McCord 245 Ark. 401, 408-409, 432 S.W.2d 753, 757 (Ark. 1968)*.

(c) In a city with a Mayor-Council Member form of government, corporate authority is vested in a Mayor and City Council. *A.C.A. §14-42-102*. The City Council, in addition to all legislative powers, possesses all corporate powers not prohibited by the General Assembly or its own ordinances *A.C.A. §14-43-502(a)*. Among its powers are the management and control of finances and of the property of the municipal corporation. *A.C.A. §14-43-502(b)(1)* and *Laman v. McCord 245 Ark. 401, 408-409, 432 S.W.2d 753, 757 (Ark. 1968)*.

2.5 Authority of a City of the First Class Generally: Any city of the first class is authorized to perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs including, but not limited to, the power to tax. *A.C.A. §14-43-602*.

2.6 Ordinances, Resolutions and Orders to Remain in Effect Until Repealed: All laws, ordinances, resolutions, or orders, lawfully passed and adopted by the City Council, not inconsistent with the Constitution or laws of this state, shall be, remain, and continue in force until altered or repealed by the City Council. *A.C.A. §14-55-401*

Section 3: City Council Meetings Standing Rules.

3.1 Meetings to be Public: All official meetings of the City Council and all standing or special committee meetings shall be open to the public per *A.C.A. §14-43-502(b)(2)(A)* with the exception of the executive sessions for certain limited topics, as defined in *A.C.A. §25-19-106*. All special meetings are open to the public. *A.C.A. §25-19-106(b)(2)*. The Journal of Proceedings (Minute Book) shall be open to public inspection in accordance with the Arkansas Freedom of Information Act. *A.C.A. §25-19-103(5)(A)* and *A.C.A. §25-19-105*.

3.2 Location: The City Council generally holds its regular City Council meetings and special City Council meetings at City Hall at 203 South Commerce Avenue on the second floor in the City Council Chambers. On occasion, however, the City Council may determine that the meeting shall be conducted at an alternative location. Such alternate location shall be immediately disclosed to the public through media organizations as soon as possible.

3.3 City Council Agenda Meeting: (a) The agenda meetings to set the agenda for the regular monthly City Council meetings should typically meet on the Tuesday of the week prior to the week of the regularly scheduled City Council meeting at approximately five-thirty p.m. (5:30 p.m.) in the First Floor Conference Room at City Hall immediately after the Finance/Property Committee meeting. Should that room not be available or be inconvenient to the meeting, the Mayor's Office shall announce the new meeting site for the meeting as soon as possible to the Council Members and the media outlets.

(b) **Report From Department of Public Works.** Part of the City Council Agenda Meetings of the City Council shall include a report from the Director of Public Works or their designee to the City Council on the current status of Public Works projects of the City.

(c) **Report from Department of Planning and Development.** Every quarter of the calendar year as a part of the City Council Agenda Meeting of the City Council, the City Council shall hear a report from the Director of Planning and Development or their designee.

3.4 Regular City Council Meetings: The regular meetings of the City Council shall meet on the third Thursday of each month at six o'clock p.m. (6:00 p.m.). When a Council meeting falls on a holiday or the annual Arkansas Municipal League Convention, the regular meeting shall be held on the following Thursday at the same hour unless otherwise provided by motion. The City Council may cancel or reschedule regular meetings at a different date or time by motion. The place of the meeting shall be the City Council Chambers in the City Hall, and all regular and special meetings shall be public. *A.C.A. §14-43-501*, *A.C.A. §14-43-502(b)(2)(A)* and *A.C.A. §25-19-106*.

3.5 Special City Council Meetings: (a) Special City Council meetings may be called by the Mayor or any three (3) Council Members of the Council. *A.C.A. 14-43-502(b)(2)(B)*. There are three (3) types of Special City Council Meetings.

- (1) **Special Meetings.** Business that cannot be postponed, or issues that affect a limited number of citizens, are dealt with at a specially-scheduled meeting. These meetings usually have a more limited agenda than regular meetings but, like regular meetings, they are open to the public. It is important that the time and place of meetings of this sort are announced to the media as required by

the Freedom of Information Act. Media that have requested notice must be given at least two (2) hours advance notification *A.C.A. § 25-19-106(b)*.

- (2) **Public Hearings.** Hearings are a forum for residents to express opinions and for council members to explain their positions to the public. Public hearing can be held at either Regular or Special City Council Meetings. Hearings are most effective when they target only one (1) item per hearing. For a Public Hearing at a Special City Council Meeting, the media that have requested notice must be given at least two (2) hours advance notification *A.C.A. § 25-19-106(b)*. No Resolution or Ordinance may be passed at a Public Hearing. This prohibition does not affect any Resolution or Ordinance from being passed at a Regular City Council Meeting in which a Public Hearing is also being held.
- (3) **Work Sessions.** An informal meeting, generally called for the purpose of conducting an in-depth study on a limited number of topics. Work session meetings encourage exploration of subjects in more detail than is possible in regular meetings because of the time constraints and the pressure of other business that occur in regular council session. These sessions must be open to the public with notice of the meeting at least two (2) hours prior to the time of the Work Session meeting. No passage of any Resolution or Ordinance may occur at a Work Session unless two-thirds ($\frac{2}{3}$) of the whole majority of the City Council suspend the rules to allow for passage of a Resolution or Ordinance. No public comments shall be taken by the City Council during a Work Session City Council Meeting unless a majority present and voting votes to approve public comments.

(b) Each of these types of special meetings offers a way to achieve certain goals. A correct choice of meeting type will enable your city government to do its job effectively.

(c) The Mayor's Office or City Clerk-Treasurer shall prepare a notice of the Special City Council Meeting, stating the time, place, and agenda. The Mayor's Office or City Clerk-Treasurer shall attempt to notify each Council Member either in person, by telephone, email or otherwise, of the called Special City Council Meeting as soon as possible.

(d) The Mayor's Office or City Clerk-Treasurer shall give notice of the Special City Council Meeting to a local newspaper of general circulation, each local radio station and media outlet which has filed with her a written request to be notified of special meetings at least two (2) hours prior to the scheduled special meeting along with the type of Special City Council Meeting it is.

3.6 Quorum: (a) A majority of the whole number of Council Members shall constitute a quorum for the City Council in order to conduct any business. *A.C.A. §14-43-501(a)(2)(A)*. *Mason's Legislative Manual Ch. 7, §49, Page 45, ¶2*.

(b) The Mayor shall count towards a quorum for a Regular or Special Meeting. *A.C.A. §14-43-501(b)(1)(B)*.

(c) A quorum of the Finance/Property and Personnel Committees shall be three (3) Council Members. A quorum for a temporary or special committee shall be a majority of the number of Council Members that make up a temporary or special committee.

(d) The Mayor shall not count towards the quorum of any committee.

(e) Ex-officio members of any committee shall not count towards the quorum of any committee.

3.7 Journal of Proceedings – Minute Book: An account of all proceedings of the City Council shall be kept by the City Clerk-Treasurer and shall be entered in a book constituting the official record of the City Council. *A.C.A. §14-43-501(a)(2)(C)* and *A.C.A. §14-43-506*.

3.8 Procedure in Absence of Quorum. If a quorum fails to attend within thirty (30) minutes after the time appointed for a Regular or Special Council Meeting, the City Clerk-Treasurer shall enter on the journal the names of those in attendance and the adjournment for want of a quorum. If a quorum fails to attend on the day of any Regular or Special Council Meeting, the meeting shall stand adjourned to the next day of meeting, or at such other time as those present may designate.

3.9 Executive Sessions: Executive sessions or closed meetings may be held only in accordance with the provisions of the Arkansas Freedom of Information Act. *A.C.A. 25-19-101 et. seq.* and *A.C.A. §25-19-106(c)*.

3.10 Attendance of Media at Council Meetings: All official meetings of the City Council and its committees shall be open to the media, freely subject to recording by radio, television and photographic services at any time, provided that such arrangements do not interfere with the orderly conduct of the meetings.

3.11 Confirmation of Appointments by City Council: (a) Before any appointment to a City board or commission which is required by state law or city ordinance to be approved or confirmed by the City Council can be voted on by the City Council at a regular City Council meeting, the name of the appointment must be submitted to the City Council prior to the regular City Council meeting that the appointment is to be voted on to approve or confirm.

(b) Any vote on any appointment in contradiction to Section 3.11(a) shall be null and void.

(c) The City Council may suspend Section 3.11(a) by suspending these Rules under the Section 5.5(a) and upon successful suspension of the rules vote on an appointment the same day of the submission of the name to the City Council.

(d) The City Council may hold a special called meeting after the submission of an appointment at a regular City Council meeting to vote on approval or confirmation of the appointment.

3.12 Seating of Members: Except as otherwise directed by a majority of City Council, Council Members shall occupy the seats in the Council chamber assigned to them by the Mayor, but any two (2) or more Members may exchange seats by giving joint written notice to the Mayor.

3.13 Excusal During Meeting: After the name of any Council Member has been recorded as present at any meeting of the City Council, any Council Member desiring to be excused while City Council is in a meeting shall obtain such permission or consent from the Chair.

3.14 Physical Presence Required to Vote. A Council Member must be physically present at any Council meeting or any Committee meeting, in order to vote or be counted as part of a quorum unless the State of Arkansas is in a declared state emergency.

Section 4. Committees of the City Council Standing Rules.

4.1 The Role of City Council Committees: (a) A Committee, as understood in parliamentary law, is a body of one (1) or more persons, elected or appointed by, or by direction of, assembly or society, to consider, investigate, or take action on certain matters or to do all of these things. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:1.* For the purposes of these Rules, a City Committee is a body of two (2) or more Council Members selected from the City Council to consider, investigate, or take action on certain matters within the subject matter of the Committee upon which the Council Member sits or that is referred to the Committee by the City Council.

(b) City Council Committees are intended to enhance communication between the City Council and City staff at the early phase of the development of significant items affecting public policy questions. These Committees will enable City staff to obtain early feedback from representative members of the City Council on issues affecting public policy prior to their presentation, as necessary, to the full City Council.

(c) City Council Committee members develop and maintain a deeper level of knowledge on matters of a technical nature which might affect public policy in order to increase the positive exchange of information and discussions between City Council members, City staff, and the public.

(d) City Council Committees do not replace the City Council as final decision makers on behalf of the full City Council. Council Committees make no staff direction on administrative matters, specific assignments, or work tasks. If Committee members seek additional information from an outside party or consultant resulting in additional cost to the City, approval to incur such cost must be approved by the full City Council.

(e) Any discussion or feedback expressed or received at a Committee meeting should not be construed or understood to be a decision by or for the City Council. Further, any recommendation a Committee may make to the City Council is based on information possessed by the Committee at the time the recommendation is made and may be revised or amended upon receipt by the Committee of additional or newer information.

(f) Committee members shall respect the limitations of their individual and collective authority. The role of the committee is to advise the Mayor and City Council. Please keep in mind that a committee appointment does not empower a Council Member to make final decisions or to supervise staff.

(g) Be careful to not deliberate about a Committee's work and issues via personal e-mail or in unnoticed "side meetings or gatherings" as these actions may be in violation of the Arkansas Freedom of Information Act.

4.2 Standing Committees: (a) The City Council shall have two (2) standing committees *Robert's Rules of Order, Newly Revised, 12th Edition, §50:7*, the Finance/Property Committee and the Personnel Committee with each committee composed of four (4) Council Members of the Council. *A.C.A. §14-43-501.* The membership of each standing committee shall have no more than one (1) Council Member from each ward of the City.

- (1) The first standing committee is the Finance/Property Committee. It shall hear and debate all financial and property matters concerning the City of Russellville and make recommendations to the City Council regarding municipal financial or property concerns. The Mayor and the Finance Director shall be ex-officio

- members of the Finance/Property Committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:8.*
- (2) The second standing committee is the Personnel Committee. It shall hear and debate all personnel matters involving the employees of the City of Russellville and make recommendations to the City Council regarding personnel matters. The Mayor and Human Resources Director shall be ex-officio members of the Personnel Committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:8.*
- (b) The number of Council Members needed for either the Finance/Property and Personnel Committees each standing committee to compose a quorum in order to conduct business is three (3). *Robert's Rules of Order, Newly Revised, 12th Edition, §50:21; Mason's Manual of Legislative Procedure, Ch. 55, §613.* Ex-officio members of either committee shall not count towards a quorum.
- (c) For each committee, a majority of affirmative votes of those Council Members present and voting are needed to pass a recommendation to the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §44:7-10.*
- (d) Council Members who are members of the Finance/Property Committee shall not be members of the Personnel Committee, and Council Members who are members of the Personnel Committee shall not be members of the Finance/Property Committee.
- (e) Each standing committee shall choose a presiding officer or Chair for their committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:13 d).*
- (f) In the absence of the Chair at a standing committee meeting, the present members of the standing committee meeting shall elect a temporary Chair for the meeting who shall preside over the meeting with all the privileges and rights of the regular Chair. *Mason's Manual of Legislative Procedure, Ch. 55, §§608-609.*
- (g) The Chair of the Finance/Property Committee or Personnel Committee each standing committee or any three (3) members of either of their committees besides the Chair shall have the authority to set the date and time of committee meetings not otherwise set by these Rules in this Section. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:21; Mason's Manual of Legislative Procedure, Ch. 55, §626.*
- (h) All matters recommended for passage by the standing committees shall be placed on the next immediate City Council regular meeting unless specifically directed by the committee to be considered at a special meeting of the City Council.
- (i) All matters referred to the City Council Agenda by a standing committee shall only require a motion to adopt to be placed before the City Council. Recommended matters which involve the adoption of an ordinance still must comply with the state law of reading an ordinance in full on three different days unless two-thirds ($\frac{2}{3}$) of the City Council suspend this requirement.
- (j) Standing committees shall conduct its affairs in a more informal manner to encourage more discussion of the matters on the agenda of the committees. Therefore, there are no limits as to the number of times or amount of time a Council Member may speak on any one subject before the standing committees Finance or Personnel Committees. *Robert's Rules of Order, Newly Revised, 12th Edition, §49:21; 50:25; Mason's Manual of Legislative Procedure, Ch. 55, §632; Demeter's Manual of Parliamentary Law and Procedure, Ch. 20, Page 275.*

(k) Public comment by others may be limited by the Chair of the standing committees Finance or Personnel Committee since the main purpose of a committee is to allow the committee to conduct its business among its members and send its final report or recommendation to the full body of the City Council.

(l) A Motion to Limit Debate or a Motion to Vote Immediately (Call of the Question) is not allowed in standing committees. *Robert's Rules of Order, Newly Revised, 12th Edition, §49:21; 50:25; Mason's Manual of Legislative Procedure, Ch. 55, §632.*

(m) Unlike the City Council, the Chair of a standing committee is usually the most active participant in the discussions and work of the committee. The Chair exists to structure productive meetings, encourage the input of ideas, promote inclusiveness, and facilitate the overall decision-making process. The Chair may make any motion or second a motion while presiding over the standing committee. The Chair is also a voting member of the committee and may cast his vote in the same manner as the other committee members. *Robert's Rules of Order, Newly Revised, 12th Edition, §49:21; 50:25; Demeter's Manual of Parliamentary Law and Procedure, Ch. 4, Page 41.*

(n) If a committee is created that is intended to be a standing committee, the Rules of Procedure and Standing Rules shall be amended to reflect such new standing committee.

4.3 Finance/Property Committee Meeting: (a) The Finance/Property Committee shall meet on the Tuesday on the week before the week of the regularly scheduled City Council meeting at approximately five-thirty p.m. (5:30 p.m.) in the City Hall Council Chambers on the second (2nd) floor. The Finance/Property Committee shall also meet on the evening before the regularly scheduled City Council meeting in the City Council chamber at City Hall at a time determined by the Committee

(b) Should a designated room for a meeting not be available or be inconvenient to the meeting, the Mayor's Office shall announce the new meeting site for the meeting as soon as possible to the Council Members and the media outlets. All requests for appropriations or line item transfers shall be submitted to the Finance/Property Committee on or before that time at the Tuesday meeting for review and approval by the Finance/Property Committee. Should an emergency arise and an appropriation ordinance or line item or items needs to be brought before the Council, the Council can vote, at their regular meeting, to deviate from the rules and add the item as a late agenda item by a majority vote of the City Council.

(c) The Finance Committee's function is to review matters pertaining to the finances of the City, to make recommendations to the City Council that are advisory to both the Mayor and the City Council. These matters include, but are not limited to, reviewing revenue and expenditure financial statements, the City's annual independent audit, City fees and service charges and budgets and to serve as an oversight committee for the City Finance Department. The Finance Department shall provide resource material and assistance to the Finance Committee as necessary and shall provide such periodic reports as are requested by the Finance Committee.

(d) The specific duties and responsibilities of the Finance Committee shall include, but not be limited to, the following:

- (1) Review of bids and award of contracts and provide a recommendation to the City Council, for the purchase of supplies, equipment, goods and services and the construction of public facilities, including public buildings, streets and other infrastructure that are required to be publicly bid by state law.

- (2) Review of bids and advisory comment to the City Council for the issuance of bonds for short-term and long-term borrowings.
- (3) Upon recommendation of the Mayor, City Attorney, City Finance Director, review and provide recommendation to the City Council, the settlement, compromise or payment of City claims and accounts, including claims against the City, with certain limitations.
- (4) Review and advise the City Council on appropriation ordinances appropriating any City funds.
- (5) Review and make recommendations to the City Council on the annual City budget.
- (6) Review and advise the City Council on matters concerning the general financial operations of the City.
- (7) Review and advise the City Council on policies that pertains to financial matters.
- (8) Review and advise the City Council on salary changes, schedules, and grades in coordination with the Mayor, HR Director, and City Finance Director.
- (9) Review and monitor events and issues which may affect the financial status of the City.
- (10) Review and advise the City Council on grant applications by the City.
- (11) The Finance Committee shall also serve to advise the City Council on requests for exceptions to the compensation plan of the City for individual City employees.
- (12) Review annual audit from the Arkansas Legislative Audit.
- (13) Review accounting procedures.
- (14) Review ordinances and resolutions having a fiscal impact on the City.
- (15) Review all agreements, contracts, memorandums of agreement or memorandums of understanding that have a fiscal impact on the City.
- (16) Review and advise all plans for City revenue generation.
- (17) Recommend depositories for City funds.
- (18) Periodically review and advise the City Council on City fees and service charges.
- (19) Review and advise on capital improvements plans to the City Council each fiscal year.
- (20) Work with City staff to establish procedures for the selection of consulting services for capital improvements.
- (21) Recommend the selection of consulting services needed for capital improvements to the City Council.
- (22) Review and advise the City Council on personnel line item transfers of City funds within a department.
- (23) Consider any other matters incidental to the foregoing which are properly referred to the Finance Committee by City Council.

- (24) Review and advise the City Council on all proposed transactions of the City which involve any acquisition, conveyance, exchange, transfer or selling of real property.
- (25) Develop plans for the acquisition of property, for building on such property, and for the acquisition of contents and equipment within the building.
- (25) Review and advise the City Council on maintenance and operation of all City facilities and real property including the contents and equipment within.
- (26) Review, approve, maintain and recommend annually to the City Council a policy defining the City's fixed assets covering the dollar amount and useful life necessary to qualify as a City fixed asset to stay in compliance with A.C.A. §14-59-107 in coordination with the Finance Department.

4.4 Personnel Committee: (a) The Personnel Committee shall meet at a minimum quarterly with the first meeting in January on the Tuesday on the week before the week of the regularly scheduled City Council meeting at approximately five o'clock p.m. (5:00 p.m.) in the City Hall Council Chambers on the second (2nd) floor. Once the need for a Personnel Committee meeting has been determined, notice of the meeting shall be made public and media outlets contacted concerning the meeting. The Personnel Committee shall follow these Rules of Procedure in making any recommendations to the City Council and shall report to the City Council during its regular meeting as to any business conducted and recommendations made, if any.

(b) The Personnel Committee may declare itself in Executive Session only for the limited purposes stated in Section 3.8 of these Rules.

(c) Should a designated room for a meeting not be available or be inconvenient to the meeting, the Mayor's Office shall announce the new meeting site for the meeting as soon as possible to the Council Members and the media outlets. Should an emergency arise and an item or items needs to be brought before the Council, the Council can vote, at their regular meeting, to deviate from the rules and add the item as a late agenda item by a majority vote of the City Council.

(d) The Personnel Committee shall be responsible for studying, developing, and recommending policies affecting the City's personnel system and is advisory to both the Mayor and the City Council. The Human Resources Department shall provide resource material and assistance to the Personnel Committee as necessary and shall provide such periodic reports as are requested by the Personnel Committee.

(e) The specific duties of the Personnel Committee shall include the following:

- (1) Hear formal grievances of City employees.
- (2) Periodically review and recommend updates for the City Personnel Policy Manual. These responsibilities include, but are not limited to, revision of the Manual which outlines policies on hiring, firing, attendance, benefits, compensation, anti-harassment, discrimination, employee safety and discipline, workers compensation, and workplace civility or exceptions to the personnel policies.
- (3) Periodically review and recommend updates of all City approved personnel policies with the City, including sick leave, vacations, paid holidays, catastrophic leave and leave of absence.

- (4) Devise, implement, and maintain a mechanism for the performance evaluation of all City employees.
- (5) Study current personnel trends and make recommendations to the Mayor, Human Sources Director and City Council regarding such trends.
- (6) Review and establish City employee recruiting and retention procedures.
- (7) Periodically review and recommend changes to the Mayor and City Council of the City job descriptions.
- (8) Annually review employee benefit package with the Human Resources Director before the annual City employee enrollment period.
- (9) Oversee the City employee insurance benefit programs, including medical, dental, life, and worker's compensation.
- (10) Review all requests for new job titles and job descriptions and make recommendations to the Mayor and City Council concerning such titles and descriptions.
- (11) Work with City staff on human resource matters and other matters as assigned by the City Council
- (12) Review the appropriateness of job descriptions of employees and ensures appropriate job descriptions are completed before newly created City employee positions are filled.
- (13) To oversee and make recommendations to the City Council regarding City employees' workplace safety.
- (14) Consider any other matters incidental to the foregoing which are properly referred to the Personnel Committee by City Council.
- (15) When requested by the Mayor, the Personnel Committee shall advise the Mayor on the selection, appointment, discipline, and removal of department heads.
- (16) Review and recommend to the City Council changes to the compensation salary plan, annual salary range adjustments and annual salary and wage rate adjustments for the entire City personnel.
- (17) Advise and make recommendations to the City Council for the organizational structure and staffing levels of departments of the City.
- (18) Review and advise the City Council departmental requests for creation, deletion, reallocation, and reclassification of positions.
- (19) Be responsible for the oversight of the City's Equal Employment Opportunity (EEO) responsibilities, ADA compliance, anti-discrimination policies, workers' compensation, FLSA and FMLA.
- (20) Review personnel matters referred to committee from the Human Resources Director, Mayor or City Attorney.

4.5 Special or Temporary Committees: (a) The City Council may form any other temporary committees or subcommittees as need be to address specific problems from time to time should they arise *Robert's Rules of Order, Newly Revised, 12th Edition, §50:10; Mason's Manual of Legislative Procedure, Ch. 55, §640:*

- (1) The duration and membership of special or temporary committees shall be established by the City Council in a resolution. The resolution shall specify the number of Council Members to serve on the special or temporary committee and the length of time the committee is to operate any function. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:8; Demeter's Manual of Parliamentary Law and Procedure, Ch. 20, Page 277.*
- (2) If a resolution does not address either the number or Council Members to serve on the special or temporary committee, or the length of time the special or temporary committee is to be in existence, then the special or temporary committee shall have four (4) Council Members and be in existence until a final report or recommendation of the special or temporary committee is made to the City Council. A special or temporary committee length of existence may be extended by passage on a resolution by the City Council or shortened by a successful passage of the motion "Discharge the Committee." *Mason's Manual of Legislative Procedure, Ch. 55, §645; The Standard Code of Parliamentary Procedure, 4th Edition, Ch. 20, Page 176.*
- (b) The number of Council Members needed for each temporary or special committee to compose a quorum in order to conduct business is a majority of the Council Members composing the temporary or special committee. *Mason's Manual of Legislative Procedure, Ch. 55, §613.* Ex-officio members of any temporary or special committee shall not count towards a quorum.
- (c) Each special or temporary committee shall choose a presiding officer or Chair for their committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:13 d).*
- (d) In the absence of the Chair at a temporary or special committee meeting, the present members of the temporary or special committee meeting shall elect a temporary Chair for the meeting who shall preside over the meeting with all the privileges and rights of the regular Chair.
- (e) Only the Chair of a special or temporary committee or a majority of committee members shall have the authority to set the date and time of a special or temporary committee meeting not otherwise set by these Rules. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:21; Mason's Manual of Legislative Procedure, Ch. 55, §642.*
- (f) A majority of affirmative votes of those Council Members present and voting are needed to pass a recommendation to the City Council from a special or temporary committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §44:7-10.*
- (g) All matters recommended for passage by a special or temporary committee shall be placed on the next immediate City Council regular meeting unless specifically directed by the committee to be considered at a special meeting of the City Council.
- (h) All matters referred to the City Council Agenda by a special or temporary committee shall only require a motion to adopt to be placed before the City Council without a second being needed. Recommended matters which involve the adoption of an ordinance still must comply with the state law of reading an ordinance in full on three (3) different days unless two-thirds ($\frac{2}{3}$) of the City Council suspend this requirement.
- (i) Special or temporary committees shall conduct its affairs in a more informal manner to encourage more discussion of the matters on the agenda of the committees. Therefore, there are no limits as to the number of times or amount of time a Council Member may

speak on one any subject before the special or temporary committee. *Mason's Manual of Legislative Procedure, Ch. 55, §643; Demeter's Manual of Parliamentary Law and Procedure, Ch. 20, Page 275.*

(j) Public comment by others may be limited by the Chair of the special or temporary committee since the main purpose of a committee is to allow the committee to conduct its business among its members and send its final report or recommendation to the full body of the City Council.

(k) A Motion to Limit Debate or a Motion to Vote Immediately (Call for the Question) is not allowed in special or temporary committees. *Robert's Rules of Order, Newly Revised, 12th Edition, §49:21; 50:25.*

(l) Unlike the City Council, the Chair of a temporary committee is usually the most active participant in the discussions and work of the committee. The Chair exists to structure productive meetings, encourage the input of ideas, promote inclusiveness, and facilitate the overall decision-making process. The Chair may make any motion or second a motion while presiding over the standing committee. The Chair is also a voting member of the committee and may cast their vote in the same manner as the other committee members. *Robert's Rules of Order, Newly Revised, 12th Edition, §49:21; 50:25; Demeter's Manual of Parliamentary Law and Procedure, Ch. 4, Page 41.*

4.6 Committee Reports: (a) Any business coming before the City Council concerning the subject matter, of which any standing or special/temporary committee has jurisdiction, must first be referred to the proper committee for investigation, recommendation and report unless a majority of Council Members of the entire City Council by motion to discharge the subject matter from the proper committee. The City Council may then take up the subject at a City Council meeting. *Robert's Rules of Order, Newly Revised, 12th Edition, §51:1.*

(b) It shall be the duty of each standing or special committee, by the majority vote of Council, to examine any matter referred to such committee and make a report thereof at the next regular meeting of the City Council, or show good cause why no report is made. *Robert's Rules of Order, Newly Revised, 12th Edition, §51:3, 37, 42-44.*

(c) A committee may refer a subject to the City Council with one of the following recommendations: (1) Approve Passage of Subject; (2) Approve Passage of Subject as Modified/Amended/Substituted; (3) No Comment/No Recommendation/No Opinion on Subject; or (4) Deny Passage of Subject. *Robert's Rules of Order, Newly Revised, 12th Edition, §51:37, 42-49.*

(d) Such reports shall not be in writing unless chosen so by a committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §51:37, 60.*

(e) Each standing committee shall also examine into the condition of the matters within its subject matter jurisdiction, and make such reports and recommendations from time to time as may be necessary to the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §50:27.* An agenda item before any committee shall not be considered by the City Council unless:

- (1) The committee votes to send the agenda item out of the committee and to the City Council for consideration; or

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- (2) The City Council successfully passes a Motion to Discharge the Committee which identifies the agenda item the City Council wishes to take from the committee and address on its own.

Section 5. City Council Rules of Procedure.

5.1 Organizational Meeting and Officers: At the first meeting after taking office, or as soon thereafter as practicable, the City Council shall organize its members under the City Council's two (2) standing committees and shall assign liaisons to the various departments, commissions, and organizations as the Council sees fit. *A.C.A. §14-43-501(a).*

5.2 Parliamentary Authority: The rules of parliamentary procedure and standing rules contained herein are hereby adopted by the City Council and shall govern all proceedings of the City Council and all committees of the City Council. Other sources or materials of parliamentary procedure or law may be used only in the event of a conflict in which additional consultation of other parliamentary sources is needed to resolve the specific issue before the City Council but are not binding on the City Council or its standing or special committees. *A.C.A. §14-43-501(a)(2)(C)(i).*

5.3 Setting the Agenda of a Regular City Council Meeting: (a) Any Council Member wishing to add an item to the regular City Council meeting agenda may contact the City Clerk-Treasurer prior to the Agenda meeting or present the item at the Agenda meeting. No item will be added to the agenda of the regular City Council meeting after this meeting but may be added to a Late Agenda as a Late Agenda Item. Any Council Member that does add an item on the Agenda shall be identified on the Agenda as the item's sponsor, and if the item requires the passage of an Ordinance or Resolution, then the Council Member shall be identified as the sponsor of the required Ordinance or Resolution. The Council Member/sponsor shall also inform the City Clerk-Treasurer when submitting the item to the City Clerk-Treasurer prior to the Agenda meeting, or to the City Council, of the action the City Council should during the Agenda meeting, e.g., discussion, update, and/or take appropriate action.

(b) All documents or materials, independent of, or to be attached to Ordinances or Resolutions, shall be submitted by Friday at 12:00 PM of the same week that the Agenda Meeting was held to the City Clerk-Treasurer. Any documents or materials that are failed to be turned in by that Friday at 12:00 PM, shall not be accepted by the City Clerk-Treasurer and the Ordinance or Resolution associated with the documents or materials which missed the deadline shall be removed from the City Council Agenda. The City Council may elect to place the late documents or materials and their associated Ordinance or Resolution as a Late Agenda Item as per Rule 5.3(c).

(c) **Late Agenda Item.** Should an item need to be considered at a regular Council meeting after the Agenda meeting has passed, the City Council may vote, at their regular City Council meeting, to deviate from the rules and add the item as a Late Agenda Item by a majority vote of the City Council.

(d) City Council Agenda Meetings are for the sole purpose going over the proposed Agenda and adding items to the Agenda for the next regularly scheduled City Council meeting unless three (3) Council Members or the Mayor has called a special City Council meeting at the same time as the City Council Agenda meeting. *A.C.A. §14-43-502(b)(2)(B).*

(e) Some items, by operation of specific Ordinances or state laws, must be added to the Agenda. When such items arise, they shall be placed on the on the next available agenda meeting.

(f) Anonymous communications shall not be placed on the agenda or introduced into a City Council meeting.

5.4 Right of Floor: Any member desiring to speak shall be recognized by the Mayor, and shall confine his or her remarks to the agenda item under consideration or to be considered. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 3, Page 27; Ch. 4, Page 43-44.*

5.5 Suspension of Rules: (a) Any rule may be suspended by the affirmative vote of two-thirds ($\frac{2}{3}$) of the City Council.

(b) Rules relating to the priority of business, adding business to the City Council agenda or to business procedure may be suspended by majority vote of the council.

(c) Suspension of the rules cannot be applied to statutory requirements of state law.

5.6 Amendments to Rules: Proposed amendments to these Rules may be made by a Council Member giving notice to the City Clerk-Treasurer nine (9) calendar days prior to the next regular City Council meeting, which notice shall contain the specifics of the proposed amendment and the reasons thereof.

5.7 Adoption of Rules: Approval of these Rules by resolution shall constitute adoption of these Rules, which shall remain in effect unless suspended or amended as provided herein.

5.8 Attendance at Meetings: All members of the City Council shall take their respective seats at the hour designated for convening the City Council for all regular or special meetings. No member shall leave the City Council meeting while in session without permission of the Chair. *A.C.A. §14-43-501(a)(2)(C)(iii).*

5.9 Compelling Attendance: The Council may compel the attendance of absent members in such a manner and under such penalties as they shall think fit to prescribe. *A.C.A. §14-43-501(a)(2)(C)(ii).*

5.10 Attendance by Officials and Department Heads: The Mayor, City Clerk-Treasurer and City Attorney shall attend all regular and special Council meetings. Attendance of other City personnel such as Department Heads or their designees shall be required only when there are agenda items which affect their particular responsibility or upon the Mayor's or City Council's request.

5.11 Reports: The Director of Finance, Director of Public Works, Director of Recreation and Parks, Director of Animal Control, Police Chief, Fire Chief, Planning and Development and other such Department Heads shall submit monthly reports to City Council. Such reports shall be accepted as part of the record unless the City Council moves to set aside a report or reports.

5.12 Ex-Officio Members: Any official, officer or employee of the City who is appointed by the City Council or by a committee of the City Council to be an ex-officio member of a committee of the City Council shall be recognized as member of the committee with full speaking and debate privileges but without voting, motion making privileges, counting towards a quorum or counting to call a meeting of a committee of the City Council. The technical term is "advisory or honorary member".

5.13 Regular and Special Meetings are Separate Sessions: Each regular or special meeting of the City Council is a separate session for the purposes of the parliamentary procedure which is in accords with common parliamentary law. *Robert's Rules of Order, 12th Edition, §8:4, Page 75; Merriam Webster's Rules of Order, Ch. 4, Page 52.*

Section 6. Presiding Officer, Attendant Officers and Duties.

6.1 Presiding Officer: (a) The Mayor, if present, shall preside as the presiding officer, the Chair, at all meetings of the Council. *A.C.A. § 14-43-501(b)(1)(A.)* In the absence of the Mayor, the Acting Mayor shall preside. *A.C.A. § 14-43-501(b)(2)*. In the absence of both the Mayor and the Acting Mayor, the Council shall elect a presiding officer for the meeting.

(b) The presiding officer has the authority to conduct all meetings of the City Council. The Chair of the meetings shall conduct all meetings impartially, rule on procedural questions, enforce decorum and maintain order in debate, decides the outcome of voice votes on resolutions and motions and protect the rights of all Council Members at all City Council meetings. *Robert's Rules of Order, Newly Revised, 12th Edition, §47:7; Demeter's Manual of Parliamentary Law and Procedure, Ch. 4; Riddick's Rules of Procedure, Page 205; Robert's Rules of Order, Newly Revised, 12th Edition, §4:41; Cannon's Rules of Order, Ch. 12, Page 120-121.*

6.2 Call to Order: The meetings of the Council shall be called to order by the Mayor or, in his absence, by the Acting Mayor. In the absence of both the Mayor and the Acting Mayor, the meeting shall be called to order by the City Clerk-Treasurer for the election of a temporary presiding officer. The roll shall then be called by the City Clerk-Treasurer, who shall enter in the minutes of the meeting the names of the members present. *Robert's Rules of Order, Newly Revised, 12th Edition, §47:7,1).*

6.3 Preservation of Order: (a) The presiding officer of the meeting, the Chair, shall preserve order and decorum by enforcing the following rules of decorum and order and ruling any Council Member out of order whenever they violate the following rules of decorum and order *Robert's Rules of Order, Newly Revised, 12th Edition, §47:7,6) ; Demeter's Manual of Parliamentary Law and Procedure, Ch. 4, Page 40-41:*

- (b)(1) No Council Member or Chair shall attack personalities or impugn the motives of another person and shall confine their remarks in debate to the question under discussion. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:21.*
- (2) No Council Member or Chair shall use insulting or inflammatory language during Council meetings. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1, Page 31-32; Mason's Manual of Legislative Procedure, Ch. 13: §123.1.*
- (3) Council Members or Chair shall refrain from speaking adversely on a prior action not pending before the City Council unless it is brought back before the Council under a Motion to Reconsider. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:24.*
- (4) A Council Member who makes a motion which is taken up and debated by the City Council, shall not speak against the motion they have made. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:25.*
- (5) No Council Member, or Chair shall read papers or books as a part of a speech in debate without permission to do so by vote of the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:26.*
- (6) No Council Member may interrupt the Chair when the Chair is ruling on a motion before the Chair or City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:27.*

- (7) All comments or questions during debate shall be germane to the pending motion before the City Council *Robert's Rules of Order, Newly Revised, 12th Edition, §43:20.*
- (8) All comments or questions during debate shall be addressed to the Chair. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:22.*
- (9) The Chair may set other reasonable, viewpoint neutral limits to prevent disruption of City Council business.

(c) The Chair independently or upon the motion of the City Council, may reprimand or censure any person for violation of Section 6.3 or declare their actions to be out of order. The Chair independently or upon the motion of the City Council, may also expel or order the removal from the meeting of any person who disrupts the business of the Council after previously providing one (1) warning to the person for their conduct being in violation of Section 6.3 at the same meeting.

(d) During any City Council Meetings, City Council Members shall assist in preserving order and decorum and shall neither, by conversation or otherwise, delay or interrupt the proceedings nor refuse to obey the orders of the Chair or these Rules.

6.4 Enforcement of Decorum: A Police Officer shall attend each regular meeting of the City Council, and is designated as the ex-officio Sergeant-at-Arms of the Council. Upon instructions from the Chair, it shall be the duty of the Sergeant-at-Arms to remove any person from the Council meeting if the person exhibits conduct as described in Section 6.3 of these Rules and had been warned that further conduct will result in his or her removal from the meeting. *Robert's Rules of Order, Newly Revised, 12th Edition, §47:40; 61:20-21; Mason's Manual of Legislative Procedure, Ch. 53, §585.*

6.5 Points of Order and Appeal: The Chair, shall determine all points of order, subject to the right of any member to appeal to the Council. If any appeal is taken by a Council Member, the form of the motion states, "I appeal the ruling of the Chair," or words to such effect and if the appeal motion receives a second, no other business shall be transacted until the question is voted upon. The question by the Chair to the City Council shall be, "Shall the decision of the Chair be sustained?" A Council Member may only speak one time during the debate on a Motion to Appeal if they so elect. *Robert's Rules of Order, Newly Revised, 12th Edition, §24:1-2, 4.*

6.6 Questions to be Stated: The Chair shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any Council Member, in the manner provided in Section 10.11(a)(i) of these Rules. *Robert's Rules of Order, Newly Revised, 12th Edition, §47:7, 4).*

6.7 Substitution for Chair: (a) The Chair may call the Council Member who is designed as the President Pro Tem to temporarily chair the meeting in order to cover a temporary absence. Should the Council Member who is the President Pro Tem of the month not be present at the meeting, the Chair may select any other Council Member present to chair the meeting to cover the Chair's temporary absence but the substitution shall not extend beyond adjournment. *Robert's Rules of Order, Newly Revised, 12th Edition, §47:11.*

(b) The President Pro Tem, being a Council Member, may vote on any measure but shall refrain from making any motion or second on an Agenda Item. *Robert's Rules of Order, Newly Revised, 12th Edition, §44:12.*

6.8 City Attorney: The City Attorney, or their designee, shall attend City Council Meetings unless excused. Upon the request of any Council Member or Mayor, the City Attorney shall give either a written or verbal opinion on questions of the law. The City Attorney, or, in their absence, their designee, shall serve as Parliamentarian. All questions of order and procedure from the City Council or standing or special committees shall be decided by the Chair upon advice from the parliamentarian. *Robert's Rules of Order, Newly Revised, 12th Edition, §47:46, 49, 50, 53, 54; Mason's Manual of Legislative Procedure, Ch. 53, §584.* The City Attorney shall compose all ordinances, resolutions and agreements sponsored by any member of the City Council; shall perform other duties as requested by Council; shall carry out such duties as required by state law and municipal ordinance including prosecuting or defending the City in any legal proceedings in court, arbitration, mediation, negotiation or some other type of alternate dispute resolution; and shall have the sole authority under A.C.A. §14-43-407 to appoint any additional counsel to represent the City in any legal dispute. Any appointment of counsel for the City outside of these procedures in this Section shall be deemed null and void.

6.9 City Clerk-Treasurer: The City Clerk-Treasurer or their deputy, shall attend all Council Meetings unless excused. The City Clerk-Treasurer shall keep the Journal of Proceeding (Minute Book), an index of the adopted ordinances and resolutions, the storage of adopted ordinances and resolutions, keep and cause the Clerk's seal to be affixed to all transcripts, order or certificates which it may be necessary or proper to authenticate for any required documents, by-laws or ordinances and perform other duties as requested by Council and required by state law and municipal ordinance. A.C.A. §§14-43-405, 14-43-406 and 14-43-506; *Robert's Rules of Order, Newly Revised, 12th Edition, §48:1-7.*

Section 7. Order of Business and Agenda.

7.1 Agenda: (a) An agenda is the blueprint of a City Council meeting. It provides the sequence in which business shall be introduced. The agenda is the City Council’s official vehicle for providing the City Council Members with detailed information of the business that will come before the City Council at its regular meeting. Once the agenda is set and distributed to all City Council Members, each Council Member is better informed and may better prepare for the regular City Council meeting. The agenda follows the framework provided by the order of business. *Riddick’s Rules of Procedure, Page 7; Meeting Procedures-Parliamentary Law and Rules of Order for the 21st Century, Ch. 3, Page 43.*

(b) An agenda when set by the City Council at its Agenda Meeting provides protection for the membership, assuring them that business shall be taken up in that order unless suspended or otherwise taken out of order by a majority vote of the City Council and enables members to know what business will be before the City Council at the Regular or Special City Council Meeting. *Riddick’s Rules of Procedure, Page 7.*

(c) Once this “road map” is set at each City Council Agenda Meeting, the set agenda control when the Council will address the business items during a regular City Council meeting. After the agenda is set, requires a majority of Council Members to alter the agenda. Because of the need for a majority to alter the agenda after it is set, setting the agenda at a City Council Agenda Meeting is important. *Cannon’s Rules of Order, Ch. 6, Page 79.*

(d) The agenda should be as detailed as necessary to permit Council Members to prepare. Reports of departments, officers and committees are included in the agenda. In addition, it is good practice to note for each item on the agenda the action that will be required by the City Council. *Meeting Procedures-Parliamentary Law and Rules of Order for the 21st Century, Ch. 3, Page 44.*

(e) The City Clerk-Treasurer shall compile all agenda items forwarded from the department heads, officers, Council members, committees, Mayor and City commissions within the time frames stated in these Rules of Procedure and prepare the agenda into a written document for the regular City Council meeting following the regular order of business form as set out below.

7.2 Regular Order of Business: The business of all regular meetings of the Council shall be transacted in the following order, unless the Council, by a majority vote of the members present, suspends the rules and changes the order:

- (a) Call to Order
- (b) Moment of Silence
- (c) Pledge of Allegiance
- (d) Roll Call
- (e) Approval of the Minutes
- (f) Financial Report
- (g) Department Report
- (h) Mayor’s Report
- (i) Committees Reports
 - (1) Personnel Committee
 - (2) Finance/Property Committee
- (j) Unfinished Business

- (k) New Business
- (l) Late Agenda Items (if any)
- (m) Adjournment

Robert's Rules of Order, Newly Revised, 12th Edition, §3:15-16; 41:1-36, 58-60; The Standard Code of Parliamentary Procedure, 4th Edition, Ch. 14, Page 114-115.

7.3 Invocation Selection Procedure: (a) The City Clerk-Treasurer shall advertise in any medium or mediums of choice, including, but not limited to, traditional media, the City official website or City official social media platforms, at the beginning of each year in January for any and all persons wanting to lead the City Council in the invocation one (1) time annually at a regular meeting of the City Council. The City Clerk-Treasurer shall compile a list of all person electing to lead said invocation and said list shall be used by the City Clerk-Treasurer to randomly select a person to lead the invocation for one (1) City Council regular meeting. Once a person has led the invocation in one (1) calendar year, they may not lead an invocation at another City Council regular meeting in the same calendar year unless the list of names has been exhausted and everyone on the list has led a City Council regular in the calendar year.

(b) The City Council may elect the order of the invocation and moment of silence at each monthly regular meeting, for the calendar year, alternate monthly or some of method.

7.4 Acting on Matters Off-Agenda Prohibited: The City Council shall not take action upon any matter, proposal, or other item of business which is not listed upon the official agenda, except as permitted under applicable Rules of Procedure.

7.5 Suspension of Regular Order: The regular order of business may be suspended and taken out of the order at any time by majority vote of the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §41:37-39, 63; The Standard Code of Parliamentary Procedure, 4th Edition, Ch. 14, Page 116.*

7.6 Order of Business – Special Meetings: The business of all special meetings of the Council shall be transacted in the following order, unless the Council, by a majority vote of the members present, suspends the rules and changes the order:

- (a) Call to Order
- (b) Roll Call
- (c) Special Business
- (d) Adjournment

Robert's Rules of Order, Newly Revised, 12th Edition, §9:13.

Section 8. Ordinances.

8.1 Form: Ordinances shall be presented to the City Council only in typed, printed form.

8.2 Ordinance – Definition: (a) An ordinance is City Council legislation prescribing a law or rule of public conduct that is considered to be general or permanent in nature. Acts of legislation by municipal corporations which are to have continuing force and effect must be embodied in ordinances. *Van Hovenberg v. Holman*, 201 Ark. 370, 374, 144 S.W.2d 718 (1940) and AGO 2001-230.

(b) The ordinance, in addition to being referenced by number and brief title in the minutes, will be recorded and maintained in numerical sequence as a permanent record of the City in a separate set of books. Effective dates of ordinances shall be as provided by law. A.C.A. §14-55-203(c).

8.3 Ordinances - Introduction: All proposed ordinances shall be prepared by the City Attorney and bear his certification that they are in correct form. The City Attorney shall attach to each proposed ordinance the sponsor of the ordinance in which the name of the department or party who requested the proposed ordinance be prepared by the City Attorney.

8.4 Distribution of Ordinances: (a) The City Clerk-Treasurer shall prepare copies of all proposed ordinances for distribution to all members of the City Council on the Friday afternoon/evening of the same week as the Agenda meeting.

(b) Late Agenda items involving ordinances are exempt from this Rule if a majority of the whole number of Council Members of the City Council votes to add the late agenda item to the City Council meeting in accords with Section 5.3(c) of these Rules. Ordinances which are referred to the City Council agenda by committees after the City Council Agenda meeting are exempt from this Rule.

8.5 Authority to Enact Ordinances: Municipal corporations shall have the power to make and publish from time to time bylaws and ordinances, not inconsistent with the laws of the state, for carrying into effect or discharging the powers or duties conferred by the provisions of state law. A.C.A. §14-55-101.

8.6 Ordinances Generally: Municipal corporations shall have the power to make and publish bylaws and ordinances, not inconsistent with the laws of this state, which, as to them, shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such corporations and the inhabitants thereof. A.C.A. §14-55-102.

8.7 Ordinances - Enactment Procedure: (a) All ordinances shall be fully and distinctly read on three (3) different days unless two-thirds ($\frac{2}{3}$) of the members composing the municipal council shall dispense with the rule. A.C.A. §14-55-202 and AGO 2002-132.

(b) When a vote to suspend the rule is taken, with a two-thirds ($\frac{2}{3}$) majority voting for suspension of the rule, no second or third reading of the ordinance is necessary. When the rule has been properly suspended under A.C.A. § 14-55-202, an ordinance need not be read again. Example, “I move the Rules be suspended and the ordinance be read by title only with a short explanation **one time only.**” *Vaughan v. Searcy*, 199 Ark. 585, 135 S.W.2d 318 (1940) and AGO 98-282.

(1) A motion to suspend the rules can be limited in allowing a reading of the proposed ordinance by summary or title but not allowing a vote for adoption at the present meeting. Example, “I move that the Rules be suspended and the

ordinance be read by title only with a short explanation **for the first of three readings.**”

- (2) A motion to suspend the rules is not considered a main motion.
- (3) A motion to suspend the rules which fails to gather the necessary two-thirds ($\frac{2}{3}$) votes to pass does not relieve the requirement that an ordinance be read in its entirety at the present meeting on which it is on the agenda.

(c) The enacting clause of all ordinances shall be as follows: "NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, ARKANSAS, OF THE FOLLOWING:”. No ordinance shall contain more than one subject and that must be clearly expressed in its title. *A.C.A §14-55-201.*

(d) An ordinance may be considered for adoption upon:

- (1) It has been read three (3) times on three (3) different days; or,
- (2) Two-thirds ($\frac{2}{3}$) of the members of the City Council have voted to suspend the rule and if the ordinance was typed in advance of the meeting and available for review by the public. If the ordinance is to be read by title only with a summary of the ordinance, the City Attorney, City Clerk-Treasurer or some other appropriate individual shall read the title of the ordinance and provide an explanation of the content of the ordinance and answer any questions pertaining thereto. *A.C.A. §14-55-202.*

(e) An ordinance on the agenda in which a vote to suspend the rules in any form is taken and does not pass shall be read in its entirety for a first or subsequent reading unless the City Council votes on a motion which disposes of the ordinance without reading it or votes again to suspend the rules.

8.8 Recording of Votes: The yes’s and no’s shall be taken upon the passage of all ordinances by roll call vote and entered upon the official record of the Council. *A.C.A. §14-55-203(a).*

8.9 Majority Vote Required: (a) An affirmative vote of at least a majority of the whole number of Council Members elected to the City Council shall be necessary to pass an ordinance. *A.C.A. §14-55-203.*

(b) When any roll vote is called, each Council Member shall respond "yes (aye)," "no," or "abstain" in the manner prescribed in Section 10.12(a)(i).

(c) The Mayor may cast a vote on the suspension of the ordinance reading requirement or for the passage of an ordinance in which his or her vote is needed to pass the suspension of the rule or the ordinance. The Mayor cannot cast a vote on an emergency clause, appointments nominated by him or her, repealing ordinances initiated by the residents of the City or any issue which specifically states that the elected members of the City Council shall vote on the issue. *A.C.A. §14-43-501(b)(1)(B), Thompson, Mayor v. Younts, 282 Ark. 524, 530, 669 S.W.2d 471 (1984), AGO 2000-080, AGO 2004-185, AGO 2004-326, AGO 2005-006 and AGO 2007-051.*

8.10 Numbering Ordinances: A number shall be assigned to each ordinance by the City Clerk-Treasurer.

8.11 Ordinance Passage Procedure: When passed by the Council, an ordinance shall be signed by the Mayor and be attested by the City Clerk-Treasurer; and it shall be immediately filed and thereafter preserved in the office of the City Clerk-Treasurer. *A.C.A. §14-55-205.*

8.12 Ordinances - When Effective: (a) No ordinance shall take effect until thirty (30) days after the date of its passage and publication unless otherwise provided by statute, except an ordinance passed with an emergency clause shall go into effect, regardless of publication or posting, but an emergency clause shall not be effective to impose any fine, penalty, forfeiture, or deprivation of liberty or property has been published or posted as is otherwise required by law. *A.C.A. §14-55-203(c)*.

(b) An ordinance may take effect at a later date if a later date is contained within the ordinance. *A.C.A. §14-55-203(c)(2)*.

8.13 Emergency Clauses: If the City Council determines that a for the preservation of the public peace, health and safety that a measure shall become effective without delay, such necessity shall be stated in one section, and if upon a ye and nay vote two-thirds ($\frac{2}{3}$) of all the Council Members of the City Council, shall vote upon separate roll call in favor of the measure going into immediate operation, such emergency measure shall become effective without delay. It shall be necessary, however, to state the fact which constitutes the emergency. *Ark. Con., Art. 5, §1*

8.14 Requests for Ordinances: Any member of the City Council shall request the City Attorney to prepare proposed ordinances with such ordinances to be placed on the agenda of the next scheduled regular City Council meeting, provided the ordinance can be drafted and distributed to members of the Council in accordance with time schedules set forth in Sections 5.3 and 8.4 of these Rules.

8.15 Ordinances Which Did Not Pass – Procedures to Bring Back Before the City Council Again: Any ordinance which was put before the City Council by a proper motion and second to adopt and failed to receive the necessary number of votes needed for passage may be brought back before the City Council by a successfully passed Motion to Reconsider at the same meeting, or the ordinance may be placed on the agenda of the next regular City Council meeting. If the failed ordinance is placed on the agenda of the next regular City Council meeting, it is treated as if it is a new agenda item and designated on the agenda as a first reading of the ordinance and subject to the three (3) separate days of readings as required in *A.C.A. §14-55-202*.

8.16 Proposed Ordinance Amended During Readings – Affects Reading Status of Proposed Ordinance: Any proposed ordinance in which the suspension of the reading requirement rule of *A.C.A. §14-55-202* is not invoked by the City Council; and the proposed ordinance is changed or amended between the first and second reading, between the second and third reading or between the third reading and a motion to adopt the ordinance, the change or amendment is considered to have changed the proposed ordinance to a different new proposed ordinance and the changed or amended proposed ordinance must again go through the process of being read three (3) times on different days unless the reading requirement rule is suspended. *AGO 81-165*.

8.17 Appropriation Ordinances: (a) An appropriation ordinance shall require for their passage or adoption the concurrence of a majority of the Council Members of the City Council. *A.C.A. §14-55-204*.

(b) An appropriation ordinance is not viewed as being general or permanent in nature; and is not subject to the state law reading requirement in *A.C.A. §14-55-202*. Therefore, an appropriation ordinance can be passed at the same City Council meeting it was introduced. *AGO 97-175, 96-328, 92-027 and cf. Adams v. Sims, 238 Ark. 696, 385 S.W.2d 13 (1964)*

8.18 Funding of Appropriation Ordinances: All appropriation ordinances authorizing an expenditure of money shall include the exact source of the funds to be expended.

Section 9. Resolutions.

9.1 Form: Resolutions shall be presented to the City Council only in typed, printed form.

9.2 Resolutions – Definitions: (a) A resolution is a more formal form of a motion normally utilized to set forth policy of the City. Resolutions are either temporary or specific in character and either express an opinion of the City Council or direct ministerial acts. *Van Hovenberg v. Holman, 201 Ark. 370, 374, 144 S.W.2d 718 (1940)* and *AGO 2001-230*.

(b) The resolution, in addition to being referenced by number and brief title in the minutes, will be recorded as provided by law and maintained in numerical sequence as a permanent record of the City in a separate set of books.

(c) Resolutions are used for various reasons, such as when specifically required by law, when needed as a separate evidentiary document to be transmitted to another governmental agency, when Council Members wants to express the opinion of the City Council, to formalize a particular motion, for ministerial acts or where the frequency of future references refer back to its contents warrants a separate document to facilitate such future reference and research.

9.3 Resolutions - Introduction: All proposed resolutions shall be prepared by the City Attorney and bear his certification that they are in correct form. The City Attorney shall attach to each proposed resolution the sponsor of the ordinance in which the name of the department or party who requested the proposed resolution to be prepared by the City Attorney.

9.4 Distribution of Resolutions: (a) The City Clerk-Treasurer shall prepare copies of all proposed resolutions for distribution to all members of the City Council on the Friday afternoon/evening of the same week as the Agenda meeting.

(b) Late agenda items involving resolutions are exempt from this Rule if a majority of the whole number of Council Members of the City Council votes to add the late agenda item to the City Council meeting in accords with Section 5.3(c) of these Rules. Resolutions which are referred to the City Council agenda by committees after the City Council Agenda meeting are exempt from this Rule.

9.5 Resolutions - Enactment Procedure: (a) The enacting clause of all resolutions stating an opinion shall be as follows: "NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, ARKANSAS:?" *Demeter's Manual of Parliamentary Law and Procedure, Ch. 25, Page 324.* (b) The enacting clause of all resolutions directing an action shall be as follows: "NOW, THEREFORE, BE IT ORDERED BY THE CITY COUNCIL OF THE CITY OF RUSSELLVILLE, ARKANSAS:?" *Demeter's Manual of Parliamentary Law and Procedure, Ch. 25, Page 324.*

(c) No resolution shall contain more than one subject and that must be clearly expressed in its title.

(d) A Resolution is not required to be read first before voting to approve it. However, if requested, a Resolution can be read in its entirety or by title only with a summary of the Resolution's contents by the City Attorney, City Clerk-Treasurer or some other appropriate individual and answer any questions pertaining thereto.

9.6 Recording of Votes: The yes's and no's shall be taken upon the passage of all resolutions by voice vote and entered upon the official record of the Council. *A.C.A. §14-55-203(a)*. A voice vote on any resolution is final when announced by the Chair. *Meeting Procedures-Parliamentary Law and Rules of Order for the 21st Century, Ch. 9, Page 136.*

9.7 Majority Vote Required: (a) An affirmative vote of at least a majority of the whole number of Council Members elected to the City Council shall be necessary to pass a resolution. *A.C.A. §14-55-203*

(b) When any voice vote is called, each Council Member shall respond "yes (aye)," "no," or "abstain" in the manner prescribed in Section 10.12(a)(ii).

(c) The Mayor may cast a vote on a resolution in which his or her vote is needed to pass the resolution. *A.C.A. §14-43-501(b)(1)(B), AGO 2004-326, AGO 2005-006 and AGO 2007-051.*

9.8 Numbering Resolutions: A number shall be assigned to each resolution by the City Clerk-Treasurer.

9.9 Resolution Passage Procedure: When passed by the City Council, a resolution shall be signed by the Mayor and be attested by the City Clerk-Treasurer; and it shall be immediately filed and thereafter preserved in the office of the City Clerk-Treasurer. *A.C.A. §14-55-205.*

9.10 Resolutions - When Effective: Effective dates of resolutions shall be as provided by state law if applicable or by a clause in the resolution stating the effective date. All resolutions shall become effective immediately upon passage unless a different effective date is contained within the resolution. If there is no effective date on a resolution, then the resolution is deemed to go into effective immediately upon passage of the resolution by the City Council.

9.11 Requests for Resolutions: Any member of the City Council may request the City Attorney to prepare proposed resolution with such resolutions to be placed on the agenda of the next scheduled regular City Council meeting, provided the resolution can be drafted and distributed to members of the Council in accordance with time schedules set forth in Sections 5.3(c) and 9.4 of these Rules.

9.12 Resolutions Inferior to Ordinances: It is well settled that an ordinance cannot be repealed, amended, or suspended by a resolution. *Meyer v. Seiffert, 216 Ark. 293, 225 S.W.2d 4 (1949)* and *AGO 2005-007.*

9.13 Resolutions Which Did Not Pass – Procedures to Bring Back Before the City Council Again: Any resolution which was put before the City Council by a proper motion and second to adopt and failed to receive the necessary number of votes needed for passage may be brought back before the City Council by a successfully passed Motion to Reconsider at the same meeting, or the resolution may be placed on the agenda of the next regular City Council meeting.

Section 10. The Main Motion, Debate and Public Comment.

10.1 The Main Motion - When Made: (a) A main motion is a motion which conducts the business before the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §6:1.* The word “motion” refers to a formal proposal by two members (the mover and seconder) that the meeting take certain action. When a main motion is made and seconded, it shall be stated by the Chair before debate. A main motion can be made only under the following circumstances:

- (1) After the third reading of an ordinance on the agenda; *A.C.A. §14-55-202* and *A.C.A. §14-55-203(b)*, or
- (2) After the reading requirement for an ordinance on the agenda has been suspended along with a short summary of the ordinance (“Motion to Suspend the Rules”); *A.C.A. §14-55-202* or *A.C.A. §14-55-203(b)*
- (3) On any resolution on the agenda; or, *A.C.A. §14-55-203(b)*,
- (4) On any order on the agenda; or, *A.C.A. §14-55-203(b)*
- (5) On any item on the agenda not requiring passage of an ordinance or resolution but brings business before the City Council.

(b) Prior to the Chair stating the motion, the maker of the main motion has the right to modify his motion as he or she pleases, or to withdraw it entirely. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:19.*

- (1) If the main motion is modified, the member who has seconded it has the right to withdraw his second.
- (2) If a modification made by another member is accepted by the maker of the motion, then the person suggesting the modification has, in effect, seconded the modified main motion and no further second is needed.
- (3) If the member who seconded the unmodified main motion withdraws his second after modification, the second is presumed made by the member suggesting the modification.
- (4) After statement of the main motion by the Chair and the start of debate on the main motion, the main motion cannot be withdrawn or modified by the maker of the main motion because the main motion is now under the authority of the City Council. The only ways to avoid a vote on the main motion is to successfully attach a secondary motion to the main motion which either edits or propones the proposed main motion.
- (5) After statement of the main motion by the Chair and the start of debate on the main motion, the main motion cannot be withdrawn or modified by the seconder of the main motion because the main motion is now under the authority of the City Council. The only ways to avoid a vote on the main motion is to successfully attach a secondary motion to the main motion which either edits or propones the proposed main motion.

(c) Discussion of any agenda item is generally prohibited if there is no main motion before the City Council. However, a Council Member is allowed to preface a main motion with a few words of explanation so long as it does not become a speech. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:7; 43:31, 34.* A Council Member may briefly indicate what he proposes to do in order to ask the Chair to properly word a motion. *Robert's Rules of Order, Newly Revised, 12th Edition, §43:33.*

The Council Member may also make a special request to address the City Council if no main motion is pending and may do so if the City Council votes in favor of granting the Council Member's request. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:7.* Otherwise, if no motion is pending, a Council Member must state a main motion when recognized by the Chair on an agenda item. This subsection is informally set aside in all City Council committee meetings.

10.2 Main Motions Seconded: Main motions shall be seconded and clearly stated by the Chair once seconded. Main motions are those which adopt an ordinance or resolution or have the Council act, e.g., "I move that the City Council pay for X," or "I move that the City Council set Y". *Robert's Rules of Order, Newly Revised, 12th Edition, §4:9-10; Demeter's Manual of Parliamentary Law and Procedure, Ch. 6, Page 53.*

10.3 Negative Motions Prohibited: (a) Main motions should not be stated in a negative manner even when it would have a meaning since Council Members may become as to the effect of voting for or against such a motion. For example, "I move that the City Council not be in favor this Ordinance," would be a form of a negative motion sought to be avoided. If a main motion is used which contains a denial of approval such as, "I move that the City Council deny this Resolution," then that type of main motion does not count as an approval if it does not receive a majority of affirmative votes. *Robert's Rules of Order, Newly Revised, 12th Edition, §10:11-12.*

(b) The failure of "a motion to deny," type of main motion and for any type of main motion is not the same as endorsing the opposite position of the failed main motion. Instead, it is considered under parliamentary law as not expressing any view on the matter.

10.4 Lack of Motion or Second: (a) if no member offers a motion, the Chair shall again call for motions. If there are no motions after the call of the Chair, the Chair shall then declare the item fails for lack of motion. Similarly, if no one seconds another member's motion, the Chair shall declare that the motion fails for lack of a second. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:10.* The purpose of the requirement of a second is to prevent time from being consumed by the Council's having to dispose of a Main Motion that only one (1) Council Member wants to see introduced. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:12; Demeter's Manual of Parliamentary Law and Procedure, Ch. 6, Page 53.*

(b) A second to a motion means that the Council Member making a second agrees that the City Council should take up the motion for debate among the City Council. A second does not mean that the Council Member who seconded the motion agrees with the motion and is free to vote against the motion if it comes to a vote. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:11; Demeter's Manual of Parliamentary Law and Procedure, Ch. 6, Page 53.*

10.5 After Seconding of Main Motion to Adopt – Statement of the Question - Debate: (a) After a motion to adopt has been made and seconded, the Chair states the question before the City Council. The floor is then open to debate of the motion to adopt by the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:15; Demeter's Manual of Parliamentary Law and Procedure, Ch. 6, Page 54-55.* Debate follows a pattern of formality to preserve an objective, impersonal interchange of thought, as well as to help maintain order. Formal debate provides for order and courtesy. *Riddick's Rules of Procedure, Page 71.*

(b) Every Council Member is entitled to speak in debate. *Riddick's Rules of Procedure, Page 178.* Each Council Member wishing to speak in debate on the main motion shall have five (5) minutes to make his remarks. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:28.* After his or her five (5) minutes have expired, the Council Member shall yield the floor back to the Chair or if wishing to continue, ask the Chair for more time which the Chair can grant through the use of unanimous (general) consent or another member can second the Council Member's request for more time (which is a Motion to Extend Debate) and put the issue of extending debate to a vote. If the vote is successful, then the Council Member can continue to speak in debate. If the vote is unsuccessful, then the Council Member yields back to the Chair. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:29.*

(c) The Council Member who made the main motion shall have the first right to the floor for debate once the Chair has stated the question before the City Council and recognizes the Council Member. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:27.*

(d) The Chair must recognize any Council Member who desires to speak on the motion before the City Council if the Council Member seeks this right in the proper manner. *Riddick's Rules of Procedure, Page 178.* All City Council Members shall confine their questions to the particular matters before the City Council, and in debate shall confine their remarks to the issues before the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:30.*

(e) No Council Member or person is entitled to the floor a second time as long as any other Council Member or person who wishes to speak on the issue has not yet done so unless the Council Member or person who has previously spoke is responding to question posed directing to him or her. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:28; 43:12.*

(f) The Chair, when knowing which Council Members or persons wishing to speak for or against the adoption of the main motion, shall alternate the debate between those who wish to speak for and against the adoption of the main motion.

(g) A City Council Member desiring to question a department head or city staff shall address questions to the Chair who shall be entitled either to answer the inquiries or to designate some member of city staff a department head for that purpose. City Council Members shall not berate nor admonish staff members or department heads. In order to preserve decorum, Council Members should refrain from references to staff or a department head by first name and may opt instead to refer to "staff," by surname, or by the appropriate title (e.g. "Ms. Jones" or "The City Engineer").

(h) Another Council Member, an official or a department head shall not have to be recognized by the Chair if responding to a question posed to him or her by the Council Member having the floor at the time as long as proper decorum is maintained by those involved in the debate. Should proper decorum not be observed between the questioner and the respondent, the Chair shall reestablish order and decorum, and the questioner and the respondent shall yield to the Chair and wait to be recognized by the Chair before continuing the dialogue between each other. The time elapsed during a speaker's time when having the floor either asking or answering questions shall count towards the speaker's allotted time of five (5) minutes.

(i) Any secondary motions that affect the main motion must be made during the debate of the main motion. Once debate is closed by the Chair and the main motion is put to the City Council for a vote, no secondary motions can be proposed for that main motion.

(j) When debate is closed by a successfully passed Call for the Question/Vote Immediately, further public comment is prohibited and the City Council must immediately vote on the motion before it.

10.6 Agenda Item – Consideration: City Council and committee items listed on the agenda as “Consideration” shall follow the procedures listed in 10.1 through 10.5 and 10.9 through 10.21 unless a Vote to Suspend the Rules or a Vote to Refer to Informal Debate/Consideration is adopted.

10.7 Agenda Item – Discussion: City Council and committee items listed on the agenda as “Discussion” shall have latitude in following the formal rules of debate requiring a motion and second before debate of an agenda item can start. Any motions, votes and passage of motion from the conclusion of the debate must still conform to these rules (as summarized in 10.9 through 10.20) and any applicable state laws.

10.8 Public Hearings: (a) Whenever any matter, resolution or ordinance is such that by law a Public Hearing must be held, or is chosen to be held by the City Council on a matter, the City Clerk-Treasurer shall note the Public Hearing on the agenda of the City Council Special or Regular Meeting. The Chair shall open, moderate and close the public hearing. The City Council has a significant interest in conducting orderly, efficient, effective, and dignified public hearing. Therefore, all persons attending a public hearing must conform and obey the following rules governing public comments at a public hearing.

(b) All persons wishing to provide comment on the subject of the public hearing shall first be recognized by the Chair. The recognized person shall have three (3) minutes in which to state his or her opinion on the matter. After the allotted time has expired, the person recognized by the Chair shall end his or her statement and yield the floor to the Chair. If a person yields the floor before the expiration of his or her three (3) minutes, he or she is presumed to have waived his or her right to the remaining time.

(c) The Chair shall then recognize the next person wishing to provide public comment and allot him or her three (3) minutes. This procedure shall continue until all persons desiring to make a public comment at the public hearing have been heard. The Council, by motion and two-thirds ($\frac{2}{3}$) vote of approval, may elect to extend the speaking time of a person or persons.

(d) The Chair shall then recognize any Council Member desiring to make a comment or debate on the matter and may elect to make a comment or debate as well.

(e) Once all comment and debate has been heard from all persons and Council members desiring to speak on the matter the Chair shall declared the public hearing closed.

(f) All comments shall be directed to the Chair and shall not be addressed to others in attendance unless permitted by the Chair.

(g) No person signed up to speak may donate, reserve, transfer or convey any of their speaking time to another person signed up to speak.

(h) Each person addressing the City Council shall refrain from behavior that involves:

- (1) Disorderly speech or action; name calling or personal attacks; obscene or indecent remarks; and derogatory comments about persons;
- (2) Advertising or promoting the sale of products, services or private enterprise;
- (3) Promoting any raffle or game of chance;
- (4) Promoting candidates for public office or upcoming ballot measures; and,
- (5) Not being germane to the present Public Hearing subject matter being debated.
- (6) Attacking personalities or impugning the motives of another person and shall confine their remarks in debate to the question under discussion.

(i) Persons providing public comment must conform his or her conduct and speech to Subsections 10.8(g), 10.8(h) and 10.23(b) of these Rules. Failure to do so shall result in loss of public hearing time at the present meeting, potential loss of recognition to provide comment at public hearing at future meetings or even expulsion from the present meeting. Violation of any rule listed in Subsections 10.8(g), 10.8(h) and 10.23(b) can result in expulsion from the Meeting by the Chair or upon a successful motion by the City Council. A person shall first be given a warning by the Chair to cease his or her conduct before being removed by the sergeant-at-arms as directed by the Chair or upon the direction of a majority vote of the City Council on a second violation of the rules governing conduct for public comment.

(j) The Chair may set other reasonable viewpoint neutral limits to prevent the disruption of Council business.

10.9 Public Comment at Regular or Special City Council Meetings: (a) It is the desire of the City Council to hear from the citizens of Russellville and to stimulate discussion of subjects that are properly a concern of the City Council. The City Council also has a significant interest in conducting orderly, efficient, effective, and dignified meetings. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 20, Page 290.* Therefore, all persons attending a Regular and Special City Council meeting or a committee meeting must conform and obey the following rules governing public comments.

(b) The following rules shall govern public comments.

- (1) Each person desiring to speak on an Agenda item on a Regular or Special City Council Meeting must sign a sheet maintained by the City Clerk-Treasurer indicating the Agenda item the person wishing to make their comment. The sheet shall be available for sign-up before the start of the regular City Council meeting.
- (2) When members of the Council have finished debate on the main motion of an agenda item, all persons who have signed the sheet indicating their desire to speak on the matter shall have three (3) minutes in which to state their opinions on the matter as they are first recognized by the Chair.
- (3) After the allotted three (3) minutes has expired, the person recognized by the Chair shall end their statement and yield the floor back to the Chair who shall then recognize other persons wishing to provide public comment.
- (4) The Council, by motion, may elect to extend the speaking time of a person or all persons.

(c) Persons providing public comment must conform his or her conduct and speech to Subsections 10.8(g), 10.8(h) and 10.23(b) of these Rules. Failure to do so shall result in loss of public comment time at the present meeting, potential loss of recognition to provide public comment at future meetings or even expulsion from the present meeting. Violation of any rule listed in Subsections 10.8(g), 10.8(h) and 10.23(b) can result in expulsion from the Meeting by the Chair or upon a successful motion by the City Council. A person shall first (1st) be given a warning by the Chair to cease his or her conduct before being removed by the sergeant-at-arms as directed by the Chair or upon the direction of a majority vote of the City Council on a second (2nd) violation of the rules governing conduct for public comment.

(d) Once all comments have been made, the Chair shall recognize any Council Member who wishes to make a comment or debate the matter again. Any Council Member who does comment or debate after the period of public comments has closed shall have two (2) minutes to make any final closing remarks.

(e) All comments shall be directed to the Chair and shall not be addressed to others in attendance unless permitted by the Chair. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 25, Page 324.*

(f) Persons providing public comment must conform his or her conduct and speech to Subsection 10.9(b) and Section 10.23 of these Rules as well. Failure to do so shall result in loss of public comment time at the present meeting, loss of recognition to provide public comment at future meetings or even expulsion from the present meeting.

(g) No Council Members shall speak more than two (2) times in the debate of any one (1) main motion or debatable secondary motion except for the incidental motion of Appeal. A Council Member shall only speak one (1) time in the debate on the Motion to Appeal. A Council Member may speak one (1) additional time after public comment on a main motion even after he or she had previously spoken twice in debate.

(h) A successful vote to Call the Question (Vote Immediately) shall cease public comments for the agenda item to be voted on immediately.

(i) The Chair may set other reasonable viewpoint neutral limits to prevent the disruption of Council business.

10.10 Public Comment at City Council Agenda Meetings: (a) After the conclusion of the business of the Agenda Meeting by the City Council, the City Council will provide a limited forum of public comment for people in attendance at the Agenda meeting. The following rule shall govern audience comments. Each person desiring to speak about any item must sign a sheet maintained by the City Clerk-Treasurer indicating the subject and name of the person wishing to make his or her comment. When the business portion of the Agenda Meeting has concluded, only the first ten (10) persons who have signed the sheet indicating they desire to speak on any matter shall have three (3) minutes in which to state his or her opinions on any matter as he or she is first recognized by the Chair. After the allotted three (3) minutes has expired, the person recognized by the Chair shall end his or her statement and yield the floor back to the Chair who shall then recognize other persons wishing to provide public comment. The Council, by motion and majority vote of approval, may elect to extend the speaking time of a person or all persons.

(b) All comments shall be directed to the Chair and shall not be addressed to others in attendance unless permitted by the Chair.

(c) The City Council has a significant interest in conducting orderly, efficient, effective, and dignified meetings. Therefore, all persons attending an Agenda, City Council meeting or a committee meeting must conform and obey the rules governing public comments. Persons providing public comment must conform his or her conduct and speech to Subsections 10.8(g), 10.8(h) and 10.23(b) of these Rules. Failure to do so shall result in loss of public comment time at the present meeting, potential loss of recognition to provide public comment at future meetings or even expulsion from the present meeting. Violation of any rule listed in Subsections 10.8(g), 10.8(h) and 10.23(b) can result in expulsion from the Meeting by the Chair or upon a successful motion by the City Council. A person shall first (1st) be given a warning by the Chair to cease his or her conduct before being removed by the sergeant-at-arms as directed by the Chair or upon the direction of a majority vote of the City Council on a second (2nd) violation of the rules governing conduct for public comment.

(d) The Chair may set other reasonable viewpoint neutral limits to prevent the disruption of Council business.

10.11 Rules On Chair’s Participation in Debate: (a) The Chair must always strive to remain impartial as the moderator of all City Council meetings. However, the Mayor, as the elected chief executive officer and top administrator of the City, must, from time to time, participate in the debate of certain items before the City Council in order to give the City Council the administrative day to day perspective as the chief executive officer of the City. Therefore, the Mayor, while as the Chair, may participate in the debate of a pending question in the limited scope of whether a pending question is needed for the effective City administration or how the pending question will impact City administration. *Robert’s Rules of Order, Newly Revised, 12th Edition, §4:31; 43:29; Demeter’s Manual of Parliamentary Law and Procedure, Ch. 4, Page 41-43.*

(b) The Mayor, as the Chair, must realize that he or she highest priority at every meeting of the City Council is to moderate the meeting impartially. Therefore, the Mayor, as the Chair, should refrain from debate unless the business before the City Council requires the participation of the Chair to aid in the administration of the City. Too much unnecessary participation in debates may destroy the City Council’s confidence in the impartiality of the Chair’s approach to the task of presiding City Council meetings. *Robert’s Rules of Order, Newly Revised, 12th Edition, §4:31; 43:29; Demeter’s Manual of Parliamentary Law and Procedure, Ch. 4, Page 41-43.*

10.12 Debate – When Ended: Debate shall end when no more Council Members wish to be recognized by the Chair for debate purposes or when the Motion to Vote Immediately has successfully passed and ending debate on the main motion before the City Council. *Robert’s Rules of Order, Newly Revised, 12th Edition, §4:32.*

10.13 Adoption of Motion or Action Without a Motion by Unanimous (General) Consent: (a) In cases where there seems to be no opposition in routine business (e.g., adoption of minutes) or on questions of little importance (e.g., appointing employees to act on behalf of the City Council), time can often be saved by the procedure of unanimous consent, or as it is also called, general consent. To adopt a main motion without stating a question or take an action without the formality of making a motion, the Chair may ask, “If there is no objection...” or, “Without object...”, and then state the action that will be taken. If there is no objection, the Chair then declares that, “Since there is no objection to...,” the action is decided upon. *Robert’s Rules of Order, Newly Revised, 12th Edition, §4:58-59.*

(b) If a Council Member does object when the Chair asks if there is an objection, then the Chair must ask City Council whether there is a main motion to adopt or take action on the agenda item before the City Council. A main motion must be made to bring the question before the City Council to be debated and voted on by the City Council; or, the Chair, if no motion is made on the agenda item, proceeds on to the next item on the agenda of the City Council. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:59.*

(c) Unanimous or general consent does not necessarily mean that every Council Member is in favor of the proposed action; it may only mean that the opposition, believing it to be useless to oppose or discuss the question, simply acquiesces. Similarly, a Council Member who objects to the Chair's question of any objection on the question, may not necessarily oppose the motion itself, but may believe it to be important to take a formal vote on the record under the circumstances. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:60.*

10.14 Voting on the Main Motion: (a) Once all debate and public comment has ended the Chair shall recognize any Council Members who wish to further debate the main motion. The Council Members may continue debate again if they so desire after the Chair inquires the City Council if it wishes to debate the main motion any further. After the Council Members have finished debate, the Chair shall restate the question again, and the City Council shall vote on the main motion. *Robert's Rules of Order, Newly Revised, 12th Edition, §4:34; Demeter's Manual of Parliamentary Law and Procedure, Ch. 6, Page 56.*

- (1) A motion adopting an ordinance, appropriation ordinance or bylaw shall be voted on by roll call vote with the City Clerk-Treasurer calling out each individual name of the Council Members to poll their vote on the matter before the Council. The City Clerk-Treasurer shall record each of the yes's and no's or abstentions of each Council Member. The City Clerk-Treasurer shall announce the final vote of the motion, and the Chair shall declare whether the motion passes or fails. Passage of a main motion passing adopting an ordinance, appropriation ordinance or bylaw requires the majority of affirmative votes of the whole number of Council Members elected to the City Council. *A.C.A. §14-55-203(a)* and *A.C.A. §14-55-204*
- (2) A motion adopting a resolution or order shall be by voice vote with the Chair asking first who all are in favor of the motion to say yes and the vote recorded by the City Clerk-Treasurer. The Chair shall then ask who all are opposed to the motion and that vote is recorded by the City Clerk-Treasurer. Any Council Member wishing to abstain from the vote must declare "Abstain" at the time of the Chair's calling of those opposed to the motion. The City Clerk-Treasurer shall then announce the final vote, and the Chair shall declare whether the motion passes or fails. The Chair or an Council Member may call for a roll call vote should the prevailing side of a voice vote be unable to be determined within a reasonable degree of certainty. *Robert's Rules of Order, Newly Revised, 12th Edition, §45:14.* Passage of a main motion adopting a resolution or order requires the majority of affirmative votes of the whole number of Council Members elected to the City Council. *A.C.A. §14-55-203(a)*

- (3) Any other type of main motion not covered by Sections 8.9(a)(i) and 8.9(a)(ii) shall be by voice vote with the Chair asking first who all are in favor of the main motion to say yes and the vote recorded by the City Clerk-Treasurer. The Chair shall then ask who all are opposed to the main motion and that vote is recorded by the City Clerk-Treasurer. Any Council Member wishing to abstain from the vote must declare “Abstain” at the time of the Chair’s calling of those opposed to the motion. The City Clerk-Treasurer shall then announce the final vote and the Chair shall declare whether the main motion passes or fails. The Chair or a Council Member may call for a roll call vote should the prevailing side of a voice vote of the main motion be unable to be determined within a reasonable degree of certainty. *Robert’s Rules of Order, Newly Revised, 12th Edition, §45:14.* Passage of a main motion requires the majority of affirmative votes of the City Council present and voting unless there is a municipal ordinance or state law that requires a different vote. e.g., *A.C.A. §14-55-202, A.C.A. §14-55-203 and A.C.A. §14-55-204. A.C.A. §14-55-203(a), Mad Butcher, Inc. v. Parker, 4 Ark. App. 124, 628 S.W.2d 582 (1982) and AGO 95-306.*

10.15 Abstention: (a) Although it is the duty of every Council Member who has any opinion on a question to express it by their vote, he or she can abstain, since he or she cannot be compelled to vote. *Robert’s Rules of Order, Newly Revised, 12th Edition, §45:3; Riddick’s Rules of Procedure, Page 197, 208.* A Council Member or the Chair should abstain from a vote in which he or she has: 1) a conflict of interest; or 2) a direct or indirect personal or pecuniary interest. *See A.C.A. §14-42-107(b)(1). Robert’s Rules of Order, Newly Revised, 12th Edition, §45:4.*

(b) An abstention by a Council Member on a vote is not counted has an affirmative or negative vote. An abstention does not alter the passage requirement of every bylaw, ordinance, resolution or order to be passed by a concurrence of a majority of the whole number of Council Members elected to the City Council. *A.C.A. §14-55-203(b) and AGO 2002-132*

(c) An abstention on a main motion not adopting a bylaw, ordinance, resolution, order or a secondary motion is not counted has an affirmative or negative vote. An abstention does alter the passage requirement: 1) on a main motion not adopting a bylaw, ordinance, resolution or order, or, 2) a secondary motion or restorative motion; by not counting the abstention vote or votes as part of the City Council, standing committee or special committee in the determination of the majority for the vote held. In other words, in those situations, an abstention is not counted as either an affirmative or negative vote and does not count in the overall number of Council Members or Chair voting on the measure before the body. *Mad Butcher, Inc. v. Parker, 4 Ark. App. 124, 628 S.W.2d 582 (1982), AGO 95-306 and 2002-132.*

(d) Members of the assembly who do not vote on a question are legally bound by the decisions of those who do vote on the question before the assembly since the votes that are cast determine the will of the assembly, the City Council, on the question before it. *Riddick’s Rules of Procedure, Page 197*

10.16 Explanation of Vote Prohibited: An Council Member has no right to explain his or her vote during voting, which would be the same as debate at such time. *Robert’s Rules of Order, Newly Revised, 12th Edition, §45:7; Riddick’s Rules of Procedure, Page 208.*

10.17 Changing One's Vote: An Council Member has a right to change his or her vote up to the time the result is announced. *Robert's Rules of Order, Newly Revised, 12th Edition, §45:8; Demeter's Manual of Parliamentary Law and Procedure, Ch. 3, Page 37; The Standard Code of Parliamentary Procedure, 4th Edition, Ch. 17, Page 149; Riddick's Rules of Procedure, Page 208.* A voice vote on any motion is final when announced by the Chair. *Meeting Procedures-Parliamentary Law and Rules of Order for the 21st Century, Ch. 9, Page 136.*

10.18 Failure of Main Motion and Ability to Reintroduce a Failed Main Motion:

(a) A main motion that fails to be passed by the City Council at a regular or special City Council meeting cannot be renewed in the same or substantially similar form in the same meeting unless a Motion to Reconsider is approved by the City Council allowing the City Council to revote on the main motion. *Robert's Rules of Order, Newly Revised, 12th Edition, §38:1, 38:3, 1); 38:5, 1); 39:6; Mason's Legislative Manual Ch. 16, §161, Page 127, ¶1.*

(b) The City Council may take up the main motion again at a subsequent regular or special meeting if it is properly placed on the City Council Agenda for that subsequent regular or special City Council meeting.

(c) A new main motion cannot be brought up at a subsequent City Council meeting if the same or substantially similar main motion had come over from the previous City Council meeting and had been temporarily but not finally disposed of and remains within control of the City Council by the following two methods:

- (1) Postpone Definitely; or
- (2) Refer to Committee.

10.19 Freedom of Each New City Council Meeting: Each regular or special City Council meeting cannot bind a subsequent regular or special City Council meeting by placing a main motion beyond the next regular City Council meeting unless the main motion is referred to a committee. *Robert's Rules of Order, Newly Revised, 12th Edition, §8:3-4; 8:11-15.*

10.20 Motions Reaffirming Previous Passed Main Motion Prohibited: Motions reaffirming a previous passed main motion is prohibited because such a motion serves no useful purpose since the original main motion is still in effect. *Robert's Rules of Order, Newly Revised, 12th Edition, §39:6.*

10.21 Incidental Main Motions: (a) Incidental main motions are main motions that are made which relate to the business of the City Council, or its past or future actions while there is no pending main motion question before the City Council. Incidental main motions consist of secondary motions made without a question pending before the City Council. For example, a motion to recess or a motion to limit debate throughout the City Council meeting while there is no pending main motion question before the City Council are incidental main motions. *Robert's Rules of Order, Newly Revised, 12th Edition, §10:4.*

(b) The vote, debate, amending and other characteristics of a secondary motion are the same when that secondary motion is used as an incidental main motion.

10.22 Summary of Presenting a Main Motion for City Council Consideration:

- (1) A Council Member makes a motion to adopt an agenda item that qualifies in Section 10.1 to be adopted at the City Council meeting.
- (2) The motion is seconded by another Council Member of the City Council.
- (3) The motion is stated by the Mayor (Chair).
- (4) The motion is debated by the members of the City Council (Secondary Motions can be made at this time).
- (5) Public hearing is declared and received if needed or required for the passage of a certain type of ordinance or if specifically desired by the City Council.
- (6) Public comment is received by the City Council, if any is given on the motion.
- (7) The motion is further debated by the City Council, if needed. (Privileged, Subsidiary or Incidental Motions can be made at this time)
- (8) The main motion is restated by the Mayor (Chair).
- (9) The Mayor (Chair) puts the question to a vote.
- (10) A vote is taken and recorded by the City Clerk-Treasurer.
- (11) The Mayor (Chair) announces the results of the vote and whether the motion passes or fails.
- (12) The Mayor (Chair) announces the next item for business on the City Council agenda unless the item passed by the City Council is an Ordinance.
- (13) If an Ordinance is passed, a brief amount of time after the Ordinance is declared to be passed by the Mayor (Chair) is allowed in order for a motion to be made to adopt the emergency clause for the Ordinance.
- (14) The Mayor (Chair) shall put the question of adopting the emergency clause to the City Council for a vote after it has been moved and seconded by the City Council.
- (15) A vote shall be taken by the City Clerk-Treasurer and the Mayor (Chair) shall announce the results of the vote and whether the adoption of the emergency clause passes or fails.
- (16) After the Mayor (Chair) allows a reasonable period of time after the passage of the Ordinance and no motion to adopt the emergency clause or no second to adopt the emergency clause is made, then the Mayor (Chair) shall announce the next item for business on the City Council agenda.

10.23 Conduct of Public in Attendance of a City Council Regular, Special, Agenda or Committee Meeting or Public Hearing: (a) The public has a lawful right to attend and observe every Regular, Special, Agenda or Committee Meeting or Public Hearing of the City Council. The City Council and its Committees have the ability to reasonably regulate the public's conduct of their meetings in order to transact the City's business.

(b) The following rules shall apply to all public attendance at every City Council Regular, Special, Agenda or Committee Meeting or Public Hearing.

- (1) All cell phones and pagers must be turned off or set on silent.
- (2) Attendees when leaving the City Council Meeting before it is adjourned must leave in a quiet and orderly manner until outside the Council Chambers or other meeting place and hallway, so as not to disrupt the Meeting.
- (3) Banners, flyers, placards, signs, posters, packages, bundles, suitcases or other large objects are not permitted in the Council Chambers or meeting area.

- (4) Distribution of flyers or petitions in the Council Chambers room or meeting area is not permitted.
- (5) All demonstrations, including cheering, yelling, booing, whistling, handclapping and foot stomping which disrupts, disturbs or otherwise impedes the orderly conduct or business of the Council meeting are prohibited.
- (6) No person shall stand or sit in the aisles or along the walls, unless permitted by the Chair. No person shall block any doorway.
- (7) Members of the audience shall respect the rights of others and shall not create noise or other disturbances so as to disrupt or disturb persons who are addressing the City Council, Council Members who are speaking, or otherwise impede the orderly conduct of the meeting.
- (8) No persons shall attack personalities or impugn the motives of another person
- (9) No person shall use insulting or inflammatory language during Council meetings.
- (10) A person shall refrain from speaking on a prior action not pending before the City Council unless it is brought back before the Council under a Motion to Reconsider.

(c) Persons providing public comment must conform his or her conduct and speech to Subsections 10.8(g), 10.8(h) and Subsection 10.23(b) of these Rules. Failure to do so shall result in loss of public comment time at the present meeting, potential loss of recognition to provide public comment at future meetings or even expulsion from the present meeting. Violation of any rule listed above can result in expulsion from the Meeting by the Chair or upon a successful motion by the City Council. A person shall first (1st) be given a warning by the Chair to cease his or her conduct before being removed by the sergeant-at-arms as directed by the Chair or upon the direction of a majority vote of the City Council on a second (2nd) violation of the rules governing conduct for public comment.

Section 11. Secondary Motions Which Affect the Main Motion.

11.1 Precedence of Motions: When a main motion is before the City Council, no motion shall be entertained except the following, which are known as secondary motions and are divided into three (3) classes named:

- (1) Privileged Motions;
- (2) Subsidiary Motions; and
- (3) Incidental Motions.

These secondary motions except for incidental motion shall have precedence in the following order:

I. Privileged Motions (Ranked) *Robert's Rules of Order, Newly Revised, 12th Edition, §6:11-13.*

- (1) Adjourn
- (2) Recess

II. Subsidiary Motion (Ranked) *Robert's Rules of Order, Newly Revised, 12th Edition, §6:3-8.*

- (3) Vote Immediately/Call for the Question/Previous Question
- (4) Limit or Extend Time of Debate
- (5) Postpone Definitely/Postpone to a Certain Time/Table
- (6) Refer to Committee/ Refer or Commit to Informal Debate/Consideration
- (7) Amend or Substitute

III. Incidental Motions (Unranked) *Robert's Rules of Order, Newly Revised, 12th Edition, §6:15-23.*

- (8) Appeal
- (9) Point of Order
- (10) Suspend Rules
- (11) Division of Council
- (12) Withdrawing or Modifying a Motion

A table outlining the requirements of each motion is located in Appendix F of this document.

11.2 Secondary Motion to be Resolved Before Consideration of Main Motion Can Continue: Once a secondary motion placed been placed before the City Council, it must be disposed of before the City Council can continue the consideration of the main motion. *Robert's Rules of Order, Newly Revised, 12th Edition, §5:10-12.*

11.3 Abstention Vote on a Secondary Motion: An abstention vote on a secondary motion does not count towards the number of City Council in determining a majority on the vote. A majority of the whole City Council is ordinarily not required to pass a secondary motion. It should be further noted in this regard that under general parliamentary law, a majority of those Council Members voting is sufficient to approve a secondary motion where a quorum is present. This comports with the general common law rule. Thus, when not otherwise stated by rule or statute, the number of members present and voting is ordinarily the basis for calculating the majority vote, i.e., abstentions are excluded, on a secondary motion. *Mad Butcher, Inc. v. Parker, 4 Ark. App. 124, 628 S.W.2d 582 (1982), AGO 95-306 and 2002-132.*

Section 12. Motions that Bring a Question Again Before the City Council.

12.1 Restorative Motions: Motions which bring a question back before the City Council are known as Restorative Motions.

Restorative Motions (Unranked) *Robert's Rules of Order, Newly Revised, 12th Edition, §6:25-27.*

(13) Reconsider

(14) Discharge Committee

A table outlining each of the requirements of each motion is located in Appendix F of this document.

12.2 Effect of Passage of Restorative Motion: A Restorative Motion successfully passed by the City Council only brings the subject to the City Council for its reconsideration or consideration as the case may be. *Robert's Rules of Order, Newly Revised, 12th Edition, §6:27.*

12.3 Motion to Reconsider: (a) A Motion to Reconsider can only be made on and after a vote of a main motion and can only be made at the same meeting that a vote on a main motion has been taken. *Mason's Legislative Manual Ch. 7, §66, Page 57-58, ¶1.*

(b) The Motion to Reconsider a main motion must be made to reconsider a main motion and go through the main motion process to determine whether the recalled main motion is adopted or approved by the City Council or rejected by it.

(c) A successful vote to the Motion to Reconsider a main motion suspends the main motion until a vote is taken again on the main motion.

(d) A Motion to Reconsider a main motion that was previously considered earlier in the same meeting can be made only one (1) time for each failed main motion by any Council Member. If the Motion to Reconsider fails, no other Motions to Reconsider the main motion can be made again on that main motion for the rest of the meeting.

(e) The part of the vote of the Motion to Reconsider a Main Motion which determines procedurally whether the Main Motion will be recalled for a vote by the City Council meeting can be made at any time and yields to no other main or secondary motions.

(f) The vote on the recalled main motion may take place immediately after a successful Motion to Reconsider the main motion or the Chair may place recalled main motion at the end of the agenda. A recalled main motion may be postponed to the next regular City Council meeting. If the recalled main motion is not voted on at the next regular City Council meeting, the recalled main motion dies and the suspension of the successful vote of the Motion to Reconsider ends.

(g) A Motion to Reconsider cannot be made on: 1) an affirmative vote of a main motion where the provisions of the vote have been partially carried out; 2) an affirmative vote in the nature of a contract when the party to the contract has been notified of the outcome; 3) any vote which has caused something to be done that it is impossible to undo; 4) a vote on a previous Motion to Reconsider; 5) when partially the same result as desired can be obtained by some other parliamentary motion.

(h) There can be no Motion to Reconsider a failed Motion to Reconsider. *Robert's Rules of Order, Newly Revised, 12th Edition, §38:5, 3).*

12.4 Discharge a Committee: (a) A Motion to Discharge a Committee takes an issue under consideration by a committee out of the committee before a final decision is reached by the committee and onto the agenda and consideration of the City Council.

(b) If a Motion to Discharge a Committee takes an issue from a temporary or special committee and that issue is the only issue under consideration of the temporary or special committee, that committee shall cease to meet to consider the issue removed by the City Council unless the City Council commits or refers the issue back to that temporary or special committee.

(c) A Motion to Discharge a Committee takes precedence over nothing; and therefore, must be made when there is no other pending question is before the City Council. It yields to all privileged, incidental and subsidiary motions.

12.5 Abstention Vote on a Restorative Motion: An abstention vote on a restorative motion does not count towards the number of City Council in determining a majority on the vote. A majority of the whole City Council is ordinarily not required to pass a restorative motion. It should be further noted in this regard that under general parliamentary law, a majority of those Council Members voting is sufficient to approve a restorative motion where a quorum is present. This comports with the general common law rule. Thus, when not otherwise stated by rule or statute, the number of members present and voting is ordinarily the basis for calculating the majority vote, i.e., abstentions are excluded, on a restorative motion. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982), AGO 95-306 and 2002-132.

Section 13: Description of Secondary and Restorative Motions.

13.1 Motions – Brief Description

- a. **Adjourn** – To terminate a meeting officially.
- b. **Recess** – A short intermission in the meeting, which does not close the meeting. After a recess, business is taken up at exactly the point where it was interrupted.
- c. **Vote Immediately/Call for the Question/Previous Question** – Motion to close debate, shut off subsidiary motions and vote at once.
- d. **Limit or Extend Time of Debate** – To place restrictions on or to increase the amount of the time to be devoted to debate on a question or the number of speakers or the time allotted each.
- e. **Postpone Definitely/Postpone to a Certain Time/Table** – To deter consideration of a motion or report until a specific time.
- f. **Refer or Commit to Committee** – Motion to delegate work to a committee for study, decision and action. A Motion to Refer or Commit to Informal Debate/Consideration can be made at a City Council meeting on a particular question in debate by the City Council. If approved, the set amount of time and number of times a Council Member may engage in debate is removed.
- g. **Amend or Substitute** – To change, by adding, deleting or substituting words or provisions.
- h. **General Main Motion** – A motion presenting a subject to the Council for discussion and decision.
- i. **Appeal** – A decision of the Chair may be appealed from. An appeal requires that the decision be referred to the Council for its determination by a vote.
- j. **Point of Order** – When a Council Member of the City Council believes that the rules of the Council are not being followed, he or she may make this motion thereby calling upon the Chair for a ruling and enforcement of the rules. A Point of Order may also include:
 - i. **Question of Privilege** – Request or motion affecting the comfort or convenience of the Council or one of its members.
 - ii. **Call for the Agenda of the Day** – Motion that requires a meeting which is not following the Agenda to comply with following the Agenda unless $\frac{2}{3}$ of the Council vote to not enforce the motion.
 - iii. **Requests or Inquiries** – A question directed to the Chair to obtain information or inquire on a matter of parliamentary law or the rules of the organization bearing on the business at hand; to be allowed by the Chair to engage in a privilege related to an Agenda for informational purposes; or to engage in withdrawing of a motion by the member who first made the motion from the consideration by the Council.
- k. **Suspend Rules** – Allows the Council to do something during the meeting that it cannot do without violating one or more of its regular rules provided it is not in conflict with the Council’s bylaws, or other local, state or national laws.
- l. **Division of Council** – Having the voting body express its vote in another form to allow greater clarity in determining which member voted which way.

- m. **Withdraw or Modify a Motion** – To withdraw or take a motion back from consideration of the City Council before it is stated by the Chair. Once the main motion is stated by the Chair, any Council Member may make a motion to withdraw the stated main motion. If the maker of the motion to withdraw the main motion is not the same as the maker of the main motion, then a vote on the motion to withdraw must be taken. To modify a motion means for a maker of a motion to modify their motion before it is stated by the Chair.
- n. **Incidental Main Motions** - Main motions that are made which relate to the business of the City Council, or its past or future actions while no question is pending.
- o. **Reconsider** – Motion to cancel the effect of a vote so that the question may be reviewed and redecided. A motion to reconsider must be made at the same City Council meeting during which the vote sought to be reconsidered was taken and before any action in consequence of it has been taken by the City Council. Another motion to reconsider a main motion vote cannot be made if a previous motion to reconsider on the same vote has failed.
- p. **Discharge Committee** – A motion which takes a subject from the committee without a report or recommendation from the committee and brings in to the full Council body for debate and a decision.

13.2 Privileged Motions (Ranked): The class of motions having the highest priority. This small group is composed of motions which are so important that they are given privileges not accorded to other motions. They are, in effect, main motions which, because of their urgency, must be decided before the pending question. They relate to the Council Members and to the City Council rather than to the main motion.

13.3 Subsidiary Motions (Ranked): The group is made up of motions which are alternative methods of changing or disposing of the main motion. Their name derives from the fact that they are subsidiary to the main motion and, therefore, can be proposed only when a main motion is before the City Council. If a main motion is pending and some members do not wish to vote on it directly at the time, they have several choices as to how the motion may be modified or disposed of. For example, one member may believe that it is an unsuitable motion for the Council to consider and may move to postpone it indefinitely. Another may think that the motion should be changed so that it conforms more nearly to the ideas of the City Council and may move to amend it.

13.4 Incidental Motions (Unranked): The motions of this group arise incidentally out of the business which is before the City Council. In general, they are concerned with the rights and privileges of members. They have only a few characteristics in common. The purpose of this group of motions is to handle procedural problems which arise out of the consideration of other questions. These problems, naturally, must be settled before consideration can be given to the question out of which they arise. Incidental motions may be proposed at any time and must be decided whenever they arise.

13.5 Restorative Motion (Unranked): Restorative motions are ones that allow City Council to change its mind on a matter. These allow the City Council to bring up a question again. They stand by themselves and are not secondary motions because they do not aid in the disposal of a main motion.

Section 14. Severability & General Parliamentary Law Applicability.

14.1 General: If any section, subsection, provision, sentence, clause, phrase, portion or word of these Rules of Procedure or Standing Rules is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

14.2 Applicability of General Parliamentary Law in Absence of Rules Addressing Particular Procedural Questions: In the absence of these Rules of Procedure or Standing Rules addressing particular procedural questions, general parliamentary law prevails. *AGO No. 95-152 and 62 C.J.S. Municipal Corporations §400(a) (1949).*

14.3 Absence of Subject or Procedure Within Rules Does Not Relieve City Council From Obligations Under State Law: Regardless of whether a subject or procedure is or is not mentioned in these Rules of Procedure or Standing Rules, the publication and use of these Rules of Procedure or Standing Rules does not relieve, negate or supersede procedural or substantive city government authority, powers or requirements imposed or bestowed by state law on the City of Russellville, Arkansas.

14.4 Rules Take Precedence Over Appendices: The Appendices in these Rules of Procedure and Standing Rules are meant as informative, easy to read, quick reference guides for the Rules stated herein and for ancillary procedural and substantive matters that the City Council deals with from time to time. The Appendices also provide historic background information, useful guides for parliamentary tips and practices for City Council and committee meetings, parliamentary procedure terminology, state and city laws, advisory opinions and other secondary information that may be of help in dealing with parliamentary procedures and law. The Rules and Appendices should be read together and any conflict between the two should be attempted to be harmonized if possible. Should there be any disagreement or conflict between these Rules that cannot be harmonized with the Appendices, the Rules shall take precedence over the Appendices only to the extent of the disagreement or conflict.

Section 15. City Council Conduct.

15.1 City Council Liaisons: (a) The City Council Liaison is the Council Member who is specifically assigned to be the liaison between the City Council and the department, commission, board or other entity that is assigned to the Council Member. The primary role of the Liaison is that of facilitator of communications between the City Council and the department, commission, board or entity.

(b) Liaisons are chosen by the seniority system which the Council Member with the most continuous service as Council Member chooses first which liaison he or she wants and then the next senior Council Member then chooses the liaison he or she wants and so on through the remaining Council Members to the last Council Member with the least continuous service as Council Member.

(1) Any Council Members with the same number of continuous service shall decide among themselves which Council Member shall choose first by lots.

(2) An alternate method of choosing liaisons may be selected by a majority vote of the City Council.

(c) The Liaison should not be an advocate for the department, commission, board or entity, give direction or influence a decision of the department, commission, board or entity. The Liaison may, however, assist and provide guidance to department, commission, board or entity with their work plans or agendas.

(d) The purpose of the Liaison is to act as:

(1) Spokesperson to the department, commission, board or entity on behalf of the City Council only when so directed by the City Council;

(2) Contact person for the City Council, if the department, commission, board or entity or an individual of the department, commission, board or entity wants such a channel of communication; and

(3) Monitor of the department, commission, board or entity to identify procedural and structural issues relating to the effective functioning of the department, commission, board or entity for the City Council.

(e) A Council Member must clearly state when he or she is speaking on behalf of the City Council when addressing the department, commission, board or entity.

(f) Liaisons should maintain a passive role at all commission, board or other entity meetings, serving only in an advisory capacity and as a bridge between the specific body and the City Council.

(g) Liaisons should respond to questions when asked, but should not direct the department, commission, board or entity towards specific actions or activities.

(h) Liaisons should not impact the outcome of a decision or a vote of a commission, board or other entity.

(i) Attendance of the Liaison at their assigned department, commission, board or entity is discretionary but is encouraged.

(j) Council Members with questions to a department, commission, board or entity should contact the assigned Liaison before contacting the specific body.

(k) A Council Member who is appointed to sit as a member of a Storm Water/Drainage Appeals Board, Advertising and Promotion Commission, 911 Committee, [Oakland](#)

Cemetery Commission and any commission, board or entity in which the Council Member is a voting member is not a liaison for purposes of Section 15.1.

15.2 Interest In Offices Or Contracts Prohibited: (a)(1) No Council Member, member of any Council, or elected official of a municipal corporation, during the term for which he or she has been elected or one (1) year thereafter, shall be appointed to any municipal office that was created or the emoluments of which have been increased during the time for which he or she has been elected except to fill a vacancy in the office of Mayor, Council Member, City Clerk-Treasurer or City Clerk-Treasurer-Treasurer.

(2) No Council Member shall be appointed to any municipal office, except in cases provided for in §§14-37-101 *et seq.* -- 14-61-101 *et seq.*, during the time for which he or she may have been elected.

(b)(1) No Council Member, official, or municipal employee shall be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting Council Members, council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

(2) The prohibition prescribed in this subsection shall not apply to contracts for furnishing supplies, equipment, or services to be performed for a municipality by a corporation in which no Council Member, council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not Council Members or council members. *A.C.A. § 14-42-107, AGO 2009-349 and AGO 2009-126.*

(c) Any Council Member, who has a personal or professional conflict of interest with any item that appears before a Committee or the Council, shall strictly adhere to the requirements of the Arkansas Ethics Commission. This includes, but is not limited to, refraining from all conversations involving the subject matter with all Council Members, the administration, and the Mayor and absenting oneself from any room or place at which the subject matter is discussed.

15.3 Volunteer Services Offered to the City: No Council Member, or any volunteering group, club or association the Council Member is a member of, shall perform voluntary work or services for any Department or Office of the City, unless a majority of the entire City Council votes to allow the voluntary work or services to be done by the volunteering Council Member or the volunteering group, club or association the Council Member is a member of; or, unless the Mayor or Department Head in whose department the volunteer work or services are to take place, specifically request the Council Member for help on the volunteer work or service based on the Council Member's unique work experience and knowledge that the Council Member may possess that will aid the City in saving money, preventing costly repairs or maintenance in the future. Any such volunteer work or services allowed by the City Council must be detailed in how it is to be performed, and the City Council must give final approval and acceptance of the final product of the voluntary work or services done by the Council Member or the volunteering group, club or association the Council Member is a member of.

15.4 Swearing In of Elected Municipal Officials. A.C.A. §14-42-106 requires the oath for elective office to be taken within ten (10) days of January 1, or notification if they are

appointed (“within ten (10) days of the first day of January after his or her election or within ten (10) days after he or she has been notified of his or her appointment.”)

15.5 Filing of Statement of Financial Interest. Every municipal elected official is required under A.C.A. §21-8-701 to file with the City Clerk-Treasurer a Statement of Financial Interest by January 31. The Statement of Financial Interest covers the preceding year from the year it is filed. For example, all Statements of Financial Interest filed by January 2024, shall contain all of the required information from the calendar year 2023.

15.6 Requests for Information on Non-Agenda Items. City staff is employed to carry out the day to day business of operating the City. Council should remain aware of this when requesting information or asking to perform functions. Generally, all interactions from Council Members should flow through the Mayor. Any Council Members' request to the City staff to create reports, research a problem, collect data, prepare a response or other information, other than routine requests [i.e., requests for existing information or new research that can be answered under thirty (30) minutes], shall be added to a Council regular meeting agenda in the manner prescribed under these Rules, considered under New Business part of the meeting agenda, and thereafter considered for authorization to proceed by a majority vote of the Council. It is not appropriate for Council Members to admonish City staff when disagreeing with the information they brought forth. These issues should be taken up with the Mayor, and if there is deemed to be an issue that needs to be addressed by the whole Council, it will be brought forth. In any event, there shall be no personal attacks on City staff.

15.7 Requests for Projects. Direction is given to the City staff to pursue items that generally impact the policy of the City by determining that there is little or no opposition during a Work Session or Agenda Meeting, or through a direct binding majority vote of the body at a Special or Regular meeting. Once direction is given to the Mayor in one of these ways, that individual shall determine who shall carry out the duty, or advise the Council if the City needs additional City staffing to carry out the task. City staff is under no obligation to pursue items for only one Council person. If a Council person wishes to ask the City staff to work on an issue, they must have either received the consent of the City Council by determining that there is little or no opposition during a meeting or have a second on a motion to introduce legislation. A Council member shall not give orders to any staff member without the Mayor’s authorization.

15.8 Wire Communications by and to Council Members during Any Meeting of Council. Council Members shall not engage in electronic communication with each other or a member of the public during a regular or special meeting. Electronic communication is defined as e-mail, text message, instant message, website, social media, blog posting, or any other form of communication transmitted or retrieved through the use of an electronic device. This rule does not apply to remote attendance and participation in meetings pursuant to the Arkansas Freedom of Information Act, as amended.

15.9 Use of City Computers/Tablets. The City shall make computers and/or electronic tablets ("Device") available to Council to be used for City business and City related purposes. Personal use of a City-owned Device is discouraged and should be limited to intended City related uses of the Device. The following rules shall apply to Council members using a City issued Device:

(a) The Device shall contain all associated hardware and software. Council members

shall not install hardware or software on a Device without prior approval of the City's Information Technology Department.

(b) The Device will be equipped to allow internet access and e-mail capabilities; however, Council members shall refrain from using such features to communicate with other Council members during Council meetings.

(c) Council Members shall have use of the Device during the member's term of office, and such right shall terminate at the same time the member's term of office ends, at which time the Device and all associated equipment shall be returned to the City.

(d) Council Members shall be responsible for maintaining the Device in good condition, and to reasonably protect it from theft, loss or damage.

(e) Council Members may not use a Device in connection with election or re-election efforts or campaigning, either for the member or any candidate for public office.

(f) Council Members shall not use the Device for any commercial or financial gain, and shall not use the Device to access, store or download inappropriate or obscene material.

(g) Council should recognize that most information contained on a Device is subject to the Arkansas Freedom of Information Act or other means of discovery and that all public information shall be preserved in accordance with state law.

(h) Council members shall not use the Device in a manner that would violate the terms of the Arkansas Freedom of Information Act including the provision of open meetings.

15.10 Public Communication. Perhaps the most fundamental role of a Council Member is communication. Good communication helps build trust, promotes confidence, improves performance and teamwork, and minimizes surprises.

The City Council communicates with the public to assess community opinions and needs, and to share the vision, goals, and priorities for the City. Communication with staff provides policy direction, promotes teamwork and informed decisions, and provides an understanding of the implications of policies.

Since the City Council performs as a body (that is, acting based on the will of the majority as opposed to individuals), it is important that general guidelines be understood when speaking for the City Council. Equally important, when Council Members are expressing personal views and not the position of the City Council, the public should be so advised.

On occasion, a Council Member may wish to share an opinion on an issue on which the City Council has yet to take a position, or about an issue for which the City Council has no position. In these circumstances, individual Council Members should clearly indicate they are not speaking for the City Council as a whole, but as individuals. It is not appropriate to use City letterhead or Council titles for personal or political purposes.

15.11 City Council Censure. (a) *Policy:* The City Council places value on the characteristics of honesty, integrity, confidentiality, respect, and transparency. In furtherance of these leadership qualities and public accountability, the City Council adopts a censure policy to allow for Council disapproval or criticism of any of its members for actions unbecoming of their position.

(b) *Grounds:* Council members may be subject to censure if they engage in the following:

- (1) Conduct found to impugn the character of a member of the public, another

Council member, or staff member;

- (2) Conduct found to violate these Rules, state and local conflicts disclosure laws, and council confidentiality including, but not limited to, the release of information identified as confidential to unauthorized parties without approval of the City Council; or
- (3) Conduct found to cause embarrassment or damage to the reputation of the City.

(c) *Procedure:* The following procedural rules shall apply to a censure request:

- (1) Any three (3) Council Members, including the Mayor, may place a censure request on a regular meeting agenda. The request shall be in writing and shall be filed with the City Clerk-Treasurer no later than **noon** on the Friday the week before the regular meeting at which it is requested for consideration.
- (2) All Council members shall be provided a copy a censure request on the same day the request is filed with the City Secretary.
- (3) A censure request shall include the name(s) of the alleged offending Council Member(s) with a statement of the reasons for the censure.
- (4) All discussion shall be conducted in open session.
- (5) The alleged offending Council member(s) shall be provided an opportunity to respond to the allegations and present evidence in their defense except that City Council may proceed with the censure request in the absence of the alleged offending Council member(s); and
- (6) A two-thirds (2/3) vote of the City Council members present, excluding the Council member that is the subject of the Censure Request, shall be required to approve a censure request.

(d) *Consequences:* If sustained, a censure request shall serve as an official public statement of disapproval or criticism of a Council Member(s) conduct subject to the following actions:

- (1) The City Council's censure action shall be entered into the minutes of the public record; and,
- (2) The censured Council member(s) may be removed from committee assignments within the City.

Section 16. Summary for Transacting Business at a City Council Meeting.

Section 16 is a summary of Sections 1 through 15. Should any conflict or disagreement occur in the language between Section 16 and Sections 1 through 15, Sections 1 through 15 shall be followed and the conflicting or disagreeing language in Section 16 shall be disregarded if it cannot be harmonized when reading Section 16 in conjunction with Sections 1 through 15.

16.1 Quorum

- (a) A quorum is the minimum number of members who must be present at a meeting for business to be legally transacted.
- (b) State law establishes that a majority of the whole of the City Council constitutes a quorum. The Mayor can count towards a quorum at a regular meeting but not at a special meeting. *A.C.A. §14-43-501(b)(1)(B)*

16.2 Obtaining the Floor

- (a) Before a Council Member of the City Council can make a motion or speak in debate, he or she must obtain the floor; that is, the member must be recognized by the Chair as having the exclusive right to be heard at that time.
 - For example, a Council Member may address the Mayor by saying, “Mayor, may I speak on this matter?” or “Mayor, may I be recognized?”
 - The Mayor will either grant or deny the request.
 - The Council Member may then either address the Council or make a motion if recognized or stay silent if not recognized.
- (b) If two or more members seek recognition at the same time, the member who addressed the Chair first after the floor was yielded is usually entitled to be recognized. A member cannot establish "prior claim" to the floor by addressing the Chair before the floor has been yielded.

16.3 Introducing Business (Making Main Motions)

- (a) Business may be introduced by an individual Council Member or by a committee.
- (b) Business is always introduced in the form of a motion.
 - For example, a Council Member may state, “I move that the Council adopt this ordinance.” or “I move that the Council approve X.”

16.4 Seconding a Motion

- (a) After a motion has been made, another member, without obtaining the floor, may second the motion.
- (b) A second merely implies that the seconder agrees that the motion should come before the City Council and not that he or she necessarily favors the motion.
- (c) A motion made by a committee requires no second, since its introduction into the City Council has been approved by a majority of the committee.
- (d) The purpose of a second is to prevent time from being consumed by the assembly having to dispose of a motion that only one person wants to see introduced.

16.5 Placing a Motion Before the Council

- (a) After a motion has been made, the Chair repeats the motion verbatim, thus placing it before the Council for debate and action.

- (b) During the brief interval between the making of a motion and the time when the Chair places it before the City Council by restating it, the maker of a motion may modify or withdraw it simply by stating the intention to do so; after the motion has been restated by the Chair, it is officially before the Council and must be dealt with appropriately (e.g., adopted, rejected, postponed, withdrawn).

16.6 Debate

- (a) Every member of the Council has the right to speak on every debatable motion before it is finally acted upon; this right cannot be interfered with except by a Motion to Limit Debate.
- (b) All discussion must be confined to the immediately pending question and to whether or not it should be adopted.
- (c) While debate is in progress, amendments or other secondary motions can be introduced and disposed of accordingly.
- (d) No member may speak twice on the same motion at the same meeting as long as any other member who has not spoken on the motion desires to do so.
- (e) During debate, no member can attack or question the motives of another member.
- (f) The maker of a motion, although allowed to vote against it, is not allowed to speak against it.
- (g) The maker of the motion shall have the right of the floor first to debate the merits of the issue before the City Council. After the maker of the motion is finished with his statements on the manner. The Chair next recognizes the next Council Member who wishes to speak on the manner. This pattern continues until the all debate and public comment is concluded.

16.7 Amendments

- (a) As noted above, before a motion has been restated by the Chair, the maker has the right to modify his or her motion or to withdraw it entirely. After it has been restated by the Chair, however, a motion may be modified only by means of an amendment.
- (b) There are three (3) ways to amend a motion:
 - (1) Add words, phrases, or sentences at the end of a motion;
 - (2) Insert words, phrases, or sentences;
 - (3) Strike and insert words, phrases, or sentences;
- (c) Only one amendment (primary) may be pending on a main motion at any time.
- (d) Discussion of an amendment must relate only to the amendment, unless the whole motion is involved by substitution.
- (e) An amendment must be germane to the question under consideration.
- (f) No amendment can be made to amend a primary amendment.
- (g) An amendment once rejected may not be moved again substantially in the same form.

16.8 Voting

- (a) A majority of Council Members present and voting adopts a secondary and restorative motion unless special majority rules require a supermajority.
- (b) A majority of the whole number of Council Members elected to the City Council is required to adopt a bylaw, ordinance, resolution, or order.
- (c) A majority of Council Members present and voting adopts a main motion unless state or municipal laws dictate otherwise by requiring a supermajority or a majority of all the members of the City Council.
- (d) Voting is by voice vote or roll call vote depending on the nature of the motion.

- (e) The Mayor can only vote for when his or her vote would pass the measure that is subject of the vote. The Mayor cannot vote on an emergency clause.
- (f) A member has no right to explain his or her vote during voting since that would be the same as debate at such a time.
- (g) Any member may request a Division of the Council (roll call vote) if there is uncertainty as to the true result of the vote.

16.9 Announcing A Vote

- (a) In announcing the vote on a motion, the Clerk should announce the results of the vote. The Chair should declare that the motion is adopted or lost.
 - o For a voice vote in which no exact count is taken, the chair might say, for example, "The ayes have it, the motion carries, and the brochure will be published." For a vote in which an exact count is taken, the chair might say, "There are 14 in the affirmative and 15 in the negative. The negative has it and the motion is lost. No additional funds will be spent on X."

16.10 Adjournment

- (a) A motion to adjourn may be made by any member. It may be made during the consideration of other business, although it may not interrupt a speaker.
- (b) A motion to adjourn is not in order when the Council is engaged in voting or verifying a vote.
- (c) If the motion to adjourn is voted down, it may be made again only after the disposition of some business.
- (d) The motion to adjourn is out of order when the Council is arranging for the time and place of the next meeting.

16.11 Tips on Parliamentary Procedure

- (a) It is a general rule that no Council Member should be present in the City Council when any matter relating to him or herself is under consideration.
- (b) A Main Motion cannot be postponed beyond the next regular meeting.
- (c) Calls of "Question! Question!" by Council Members are not motions for the previous question and are simply informal expressions of individual members' desires to proceed to a vote; these calls are disorderly if made while another member is speaking or seeking recognition.
- (d) Abstentions count in the total number of Council Members voting when voting on a bylaw, ordinance, resolution, order or main motion; when Council Members abstain, they are in effect only attending the meeting to aid in constituting a quorum.
- (e) Motions are out of order that present essentially the same question as a motion already considered at the same meeting.
- (f) All persons present at a meeting have an obligation to obey the legitimate orders of the Chair. Council Members, however, can appeal from the decision of the Chair, move to suspend the rules, or move to reconsider- depending on the circumstances of the Chair's ruling. A Council Member can make such an appeal or motion whether or not the order involved applies to him or her personally.

16.12 Duties of the Presiding Officer of a Committee

- (a) The person who presides at a committee meeting is responsible for helping the committee organize itself and for seeing that its work is accomplished. To meet that responsibility, he or she should:

- (1) Bring the tools the committee needs to do its work--a copy for each member of a list of committee members with addresses and phone numbers; a concise statement of the committee's task, its duties and powers, or a statement of its instructions from the organization or its president; a copy of rules or policies of the organization which apply to the committee's work; and reports of previous committees or any other materials which will be useful;
 - (2) Call meetings to order on time;
 - (3) Start discussion with a few comments on the nature of the committee's task;
 - (4) Keep the discussion on track by following an agenda and avoiding irrelevant topics;
 - (5) Draw quiet members into the discussion;
 - (6) Avoid the temptation to dominate the discussion or to dictate what should be done--committees are created because a group decision is desired;
 - (7) Divide the work or appoint subcommittees when necessary, giving everyone a job;
 - (8) Encourage members to share in preparing the committee's report and, if a formal report is required, have them vote on it at a meeting;
 - (9) Submit formal committee recommendations separately from the report;
 - (10) Help members enjoy working on the committee by getting things done and leaving everyone with a sense of accomplishment; and
 - (11) Share the credit for what the committee has done with everyone who has helped by publicly recognizing members' contributions.
- (b) The person who presides over a committee is also responsible for reporting on the committee's work to the rest of the Council. Such a report can be given orally or in writing and usually contains both a description of the committee's work and a statement of its findings. The report is usually accompanied by a statement of the committee's recommendations, if any, which can then be taken up by the Council.

16.13 Handling Motions (Summary Of 16.2 Through 16.9)

- (a) An Council Member seeks recognition for the floor.
- (b) The Chair recognizes the Council Member (Council Member obtains the floor).
- (c) Council Member makes a main motion.
- (d) Another Council Member seconds the main motion.
- (e) The Chair states the question.
- (f) Debate among the City Council (amendment and secondary motions).
- (g) Public comments.
- (h) Final debate among the City Council or response to public comments (if needed).
- (i) The Chair puts the question to a vote.
- (j) The Chair announces the result of the vote.

16.14 What Precedes Debate: Before a subject is open to debate, it is necessary for a motion to be made by a member who has obtained the floor; next it is seconded (with certain exceptions); and then it is stated by the Chair (presiding officer/Mayor or Acting Mayor). The fact that a motion has been made and seconded does not place it before the City Council for consideration, as the Chair alone can do that. He must either rule it out of order, or state the question on it so that the City Council may know what is before it for consideration and action. If several questions are pending, such as a resolution and an amendment and a motion to postpone, the last one stated by the Chair is the "immediately pending" question.

Until the motion is stated or ruled out of order by the Chair, no debate or other motion is in order. However, Council Members may suggest modifications to the motion, and the mover, without the consent of the seconder, has the right to make such modifications as he pleases, or even to withdraw his motion entirely before the Chair states the question. This is the case only for a brief interval, because after the question is stated by the Chair, the mover can do neither without the consent of the Council. A little informal consultation before the question is stated often saves much time, but the Chair must see that this privilege is not abused and allowed to run into debate. When the mover modifies his motion, the one who seconded it has a right to withdraw his second. After debate has begun, a second is immaterial.

16.15 Examples of Phrases Used in the Course of Conducting a City Council Meeting:

Listed below are phrases for the presiding officer as found in the latest edition of *Robert's Rules of Order Newly Revised*. Slight variations of the given language may work just as well.

OPENING THE MEETING (after quorum is present)

"The meeting will come to order."

APPROVAL OF MINUTES

"Are there any corrections to the minutes? If there are no corrections [or "no further corrections"], the minutes stand [or "are"] approved [or "approved as read," or "approved as corrected"]."

RECOGNIZING MEMBERS

"The chair recognizes"

STATING THE QUESTION (following motion and second)

"It is moved that [or "to"]"

WHEN DEBATE APPEARS TO HAVE ENDED (if no objection, chair can proceed to vote)

"Are you ready for the question?"

TAKING A VOTE (once debate appears to have ended or vote has been ordered)

Voice Vote

*"The question is on the adoption of the motion to _____.
Those in favor of the motion, say aye. Those opposed, say no."*

ANNOUNCING RESULT OF VOTE (immediately following vote)

Voice Vote

"The ayes have it and the motion is adopted [or "carried"]."

[or]

"The no's have it and the motion is lost."

PROCEEDING THROUGH BUSINESS

"The next item of business is"

(NEVER say "The next order of business.")

DISCIPLINE

Motion Out of Order or Motion Not in Order

"The chair rules that the motion is out of order [or "not in order"] because"

MEMBER OUT OF ORDER (serious offense while speaking)

"The member is out of order and will be seated."

APPENDIX A 2026 COMMITTEES & LIAISONS

FINANCE/PROPERTY COMMITTEE

1. Keller
2. Olson
3. Bradley
4. George

ADVERTISING AND PROMOTION

1. Wetzel
2. Gray

PERSONNEL

1. Gray
2. Young
3. Wetzel
4. Peason

STORM WATER/DRAINAGE APPEALS BOARD

Abolished by Ordinance No. 2483

LIAISON APPOINTMENTS

Airport – Keller
Animal Control – Young
ATU – Wetzel
AVAFED – George
B&G Club – Pearson
Cemetery – Keller
City Corp – George
Civil Service Comm. – Olson
Planning & Dev. &
Planning Comm. – Keller

Fire Department – Gray
Historic District/Sustainability – George
Info & Tech – Olson
Main Street/Downtown
Master Plan – Young
Park & Rec. – Olson
Police Dept. – Bradley
Public Works – Pearson
911 Committee – Bradley
FOTLTH – Young
Youth Council - Gray & Wetzel

Mayor:

Mayor Fred Teague

City Council Members:

Council Member Nathan George
Council Member Laura Wetzel
Council Member Emily Young
Council Member Chris Olson
Council Member Joe Pearson
Council Member Seth Bradley
Council Member Justin Keller
Council Member Paul Gray

Seniority

5
7
4
2
8
6
1
3

APPENDIX B

PRESIDENT PRO TEM MONTHLY CHART

In the event the Mayor is unavailable, the following list will serve at the monthly Mayor service list for the calendar year 2026.

MONTH	COUNCIL MEMBER
January	Keller
February	Olson
March	Gray
April	Young
May	George
June	Bradley
July	Wetzel
August	Pearson
September	Keller
October	Olson
November	Gray
December	Young

APPENDIX C

Council Member Listing 2026

City Counsel	Ward/Position	Contact Information
Nathan George	Ward 1 Pos. 1	479-747-1977
Laura Wetzel	Ward 1 Pos. 2	479-
Emily Young	Ward 2 Pos. 1	479-970-4098
Chris Olson	Ward 2 Pos. 2	479-970-4394
Seth Bradley	Ward 3 Pos. 1	501-505-6606
Joe Pearson	Ward 3 Pos. 2	479-
Paul Gray	Ward 4 Pos. 1	479-857-0901
Justin Keller	Ward 4 Pos. 2	479-313-3151

APPENDIX D

TABLE OF BOARDS AND COMMISSIONS

Board or Commission	Appointed by	Confirmed by	Authority
A & P Commission-four tourism members	A & P Commission	Governing Body	A.C.A § 26-75-605(d)
A & P Commission-two governing body members	Governing Body	Governing Body	A.C.A. § 26-75-605(a)(2)
A & P Commission-one at large member	A & P Commission	Governing Body	A.C.A § 26-75-605(d)
Airport Commission	Mayor	City Council	Ordinance No. 2460
Board of Adjustment	Planning Commission	City Council	A.C.A. § 14-56-416; Zoning Ordinance, Art. IX
Cemetery Board	Mayor	City Council	Ordinance No. 2460
City Corporation Board	CityCorp Board	City Council	City Corporation Articles of Incorporation A.C.A. § 14-199-701(d)
Civil Service Commission	Governing Body	Governing Body	A.C.A. § 14-51-201; Ordinance No. 2460
Housing Authority-within 45 days of vacancy	Housing Authority	Governing Body	A.C.A. § 14-169-208
Housing Authority-after 44 days of vacancy	Governing Body	Governing Body	A.C.A. § 14-169-208
Planning Commission	Mayor	City Council	A.C.A. § 14-56-405; Ordinance No. 2460
Recreation & Parks Commission	Mayor	City Council	Ordinance No. 2460
Russellville Historic District Commission	Mayor	City Council	Ordinance No. 2460
Storm Water Board	Powers transferred to	BOA and Board abolished by	Ordinance No. 2483

APPENDIX E

TABLE OF MOTIONS IN ORDER OF RANK

<u>Order of Precedence</u>	<u>Types of Motions</u>	<u>Can interrupt speaker?</u>	<u>Requires a Second?</u>	<u>Debatable?</u>	<u>Amendable?</u>	<u>Vote Required?</u>
I. (Ranked) Privileged Motions						
1.	Adjourn	No	Yes	No	No	Majority
2.	Recess	No	Yes	No	Yes	Majority
II. (Ranked) Subsidiary Motions						
3.	Vote Immediately	No	Yes	No	No	Two-thirds
4.	Limit or Extend Debate	No	Yes	No	Yes	Two-thirds
5.	Postpone Definitely	No	Yes	Yes	Yes	Majority
6.	Refer to Committee	No	Yes	Yes	Yes	Majority
7.	Amend or Substitute	No	Yes	Yes	Yes	Majority
III. (Ranked) Main Motion						
8.	General Main Motion	No	Yes	Yes	No	Majority
IV. (Unranked) Incidental Motions						
9.	Appeal	Yes	Yes	Yes	No	Tie or Majority
10.	Point of Order	Yes	No	No	No	No Vote
11.	Requests or Inquiries	Yes	No	No	No	No Vote (I) or Majority Vote (R)
12.	Suspend Rules	No	Yes	No	No	2/3
13.	Division of Council	Yes	Yes	No	No	No Vote
14.	Withdraw/Modify Motion	Yes	No/Yes*	No	No	No Vote/Vote*
V. (Unranked) Restorative Motions						
15.	Reconsider	No	Yes	Yes	No	Majority
16.	Discharge Committee	No	Yes	Yes	No	Majority

***Vote only if the Main Motion has been stated by the Chair or if the Motion to Withdraw has been made by a Council Member different than the one who made the Main Motion**

APPENDIX F

Understanding Motions

Using Motions to Help Run an Effective City Council

One of the real keys to running a successful City Council, and, for that matter, of being an able Council Member or Mayor, is understanding the variety of motions, their rankings, uses and the like. People are often leery of parliamentary procedure because they wrongly believe it to be stifling and confusing. Below is a list of the eight keys to understanding motions, followed by the major types of motions. Please note that all of the motions indicate the following: whether secondable/type of vote/whether debatable. This guide provides a general explanation of motions, a motion guide by circumstance and an alphabetical listing of motions.

Understanding Motions

1. *Ranking*: learn which motion has precedence over the other
2. *Situations*: each motion applies to a specific situation
3. *Timing*: when can a particular motion be put forth?
4. *Seconding*: some motions do not require a second
5. *Debatable*: some motions can be debated, others cannot be
6. *Amendable*: some motions can be amended, others cannot
7. *Votes*: how many votes are needed for a motion to pass?
8. *Reconsideration*: can a motion be reconsidered?

Main Motion

The main motion, the most common of motions in parliamentary workings, introduces a new item of business. Ironically, these are the lowest ranking of motions. You may hear the term *resolution* used interchangeably with *motion*. A resolution is typically a more formal motion which is presented in writing. Commonly a resolution may be the result of committee work and the research of the committee is presented in the formal style of a resolution.

Privileged Motion (ranked)

Privileged motions do not deal with any business on the floor, rather they have to do with special matters of pressing importance. They take precedence over all other motions, hence their name. They can interrupt any business without discussion or debate. They include:

- (1) **Adjourn**: (needs 2nd, majority vote, no debate). This motion ends the meeting.
- (2) **Recess**: (needs 2nd, majority vote, no debate) allows for a short intermission. It acts as a privileged motion only if a main motion is pending. If no motion is pending, this motion is actually a main motion to recess.

Privileged motions fall into an order of precedence (1 the highest and 2 the lowest). *Rank* is the key to understanding the privileged motion.

Subsidiary Motion (ranked)

A subsidiary motion is one applied to other motions to help members dispose of main motions. It is important to note that they may never stand alone. They include:

- (1) **Vote Immediately/Previous Question/Call for the Question**: (needs 2nd, 2/3, no debate), (a.k.a. "motion to close debate") when members wish to bring a motion to an immediate vote they may "move the previous question" to limit discussion.
- (2) **Limit or Extend Time of Debate**: (needs 2nd, 2/3, no debate) the assembly may decide to either limit or extend debate, such as the length allotted to speeches or that the question shall be put to a vote at a specific time. A Motion to Refer or Commit to Informal Debate can be made at a City Council meeting on a particular question in debate by the City Council. If approved, the set amount of time and number of times a Council Member may engage in debate is removed.
- (3) **Postpone to a Certain Time/Postpone Definitely/Table**: (needs 2nd, majority, debatable) (a.k.a. "postpone to a certain time") allows the City Council to postpone consideration of a question to a future time or date. This should not be confused with "postpone indefinitely" which actually kills the motion.
- (4) **Commit or Refer to Committee**: (needs 2nd, majority, debatable) allows the motion to be sent to a committee for further study or redrafting.
- (5) **Amend or Substitute**: (needs 2nd, majority, debatable) allows a motion to become more specific when it is unclear or broad. This is the most common of subsidiary motions used in an assembly. An amendment must be *germane*, that is, it must have bearing on the subject of the motion being amended (Robert 1981:109). For more information see the following section on amendments.

Subsidiary motions take precedence over main motions and they are listed here in order of precedence ("Vote Immediately" is the highest, "Amend" is the lowest). You may make any of these subsidiary motions when a lower

order motion is on the floor, but you may not make a subsidiary motion if a higher one is being considered. The key here, to review the eight tips to understanding motions, is "*ranking*."

Incidental Motion (unranked)

An incidental motion always comes from another motion on the floor. These motions take precedence over all other motions except privileged ones. They must be made at the correct point in the debate. The key here, to review the eight tips to understanding motions, is "timing."

- (1) **Appeal:** (needs 2nd, majority*, debatable) used to appeal the Chair's ruling on an issue. *a majority or tie sustains the Chair's ruling (the chair can vote).
- (2) **Point of Order:** A Point of Order is an incidental motion used to provide information to a Council Member, assert a privilege, request or inquiry by a Council Member or point out to the City Council or the Chair that a procedural rule or the agenda is not being followed. A Point of Order has four (4) categories that any one (1) of which may be raised by a Council Member if the situation is applicable. The four categories are:
 - (a) **Point of Order:** (no 2nd, no vote, no debate): when an Council Member thinks the rules of the City Council have been violated, she may make a point of order, thereby calling for the Chair's ruling to restore order.
 - (b) **Requests and Inquiries:** the purpose of this motion is to: (1) obtain more information; and, (2) have the assembly do something which requires its permission (Robert 1990:283). They include:
 - (i) **Reading Papers:** (no 2nd, consent or majority with objection, no debate) a request that papers be read before the City Council, usually for the purpose of gaining more information. If there were no general rule against reading, a Council Member could theoretically read from books and reports to no end.
 - (ii) **Parliamentary Inquiry:** (no 2nd, no vote, no debate) a Council Member may request of the chair her ruling on the matter of parliamentary procedure. This is answered by the Chair.
 - (iii) **Point of Information:** (no 2nd, no vote, no debate) a request for information about the matter being debated. Also answered by the Chair.
 - (iv) **Request for Any Other Privilege:** (no 2nd, consent or majority, no debate) may only be granted by the membership of the City Council. An example being a Council Member who wishes to make a presentation when there is no pending motion.
 - (c) **Question of Privilege to Make an Urgent Request about a Person's Rights:** (no vote, no debate) allows a request or main motion to be brought up immediately through a Point of Order because of its urgency, while doing so would typically be called out of order (Robert 1990:223). Other possibilities may involve a matter of confidentiality or problems, for example, with the air conditioning or heat in a hall. There is no debate and no vote as the chair rules on the matter of privilege or not.
 - (d) **Call for the Agenda of the Day:** (no 2nd, no vote*, no debate) (a.k.a. "to enforce the schedule") if the agenda is not being followed, a Council Member may call for the agenda of the day through a Point of Order.
- (3) **Suspending the Rules:** (needs 2nd, 2/3, no debate) a motion that is used when the City Council wants to discuss an issue in a way that violates standing rules or rules of order; may not interfere with the state laws regulating the procedures of the City Council, organizational bylaws or ordinances regulating the procedures of City Council and may not be made when a question is pending.
- (4) **Division of the Council:** (no 2nd, no vote, no debate) (a.k.a. "calling for a division," not to be confused with the "division of a question") if any member questions the result of a voice vote, he or she may call for a division, thereby requiring the vote be taken again by roll call vote.
- (5) **Withdrawing or Modifying a Motion:** (no 2nd, consent or majority with objection, no debate) used only when a motion is pending. Remember, after the Chair restates a motion, it becomes the property of the City Council and can only be withdrawn by general consent of the City Council. If there is an objection to consent, the Chair may request a subsidiary motion of amend. A withdrawn motion may be brought up later in the meeting since it was never considered by the City Council.

Restorative Motion (unranked)

Restorative motions are ones that allow a deliberative assembly to change its mind on a matter. These allow the assembly to bring up a question again. They include:

- (1) **Reconsider:** (needs 2nd, majority vote, debatable) allows a group to reconsider the vote on a main motion. There is a time limit on any motion to reconsider which is that the motion to reconsider must be made at the same City Council meeting before any action in consequence has been taken as a result of the main motion vote by the City Council. Also, second motion to reconsider of a vote cannot be made if a previous motion to reconsider the same vote has failed.

- (2) **Discharge a Committee:** (needs 2nd, majority vote, debatable) allows the City Council to take a matter out of a committee's hands, before the committee has formulated a report, and allows the assembly itself to deal with the issue (Robert 1990:304). "So long as a question is in the hands of a committee, the City Council cannot consider another motion involving practically the same question" (*ibid.*).

Motions at a Glance

Privileged Motions (ranked)

Take precedence over all other motions. They fall into an order of precedence (1, the highest, and 2, the lowest).

- (1) Adjourn
- (2) Recess

Subsidiary Motions (ranked)

A subsidiary motion is one applied to other motions to help members dispose of main motions. A subsidiary motion cannot stand alone. They fall into an order of precedence (1, the highest, and 5, the lowest).

- (1) Vote Immediately/Previous Question/Call for the Question
- (2) Limit or Extend Time of Debate
- (3) Postpone to a Certain Time/Postpone Definitely/Table
- (4) Commit or Refer to Committee
- (5) Amend or Substitute

Main Motion

- (1) General Main Motion to Adopt a Measure/Approve an Appointment/Accept a Finding, etc.

Incidental Motion (unranked)

An incidental motion always comes from another motion on the floor and must be resolved before the main motion or a subsidiary motion but must yield to a privileged motion.

- (1) Appeal
- (2) Point of Order
 - (a) Point of Order
 - (b) Requests and Inquiries:
 - (i) Reading Papers
 - (ii) Parliamentary Inquiry
 - (iii) Point of Information
 - (iv) Request for Any Other Privilege
 - (c) Question of Privilege
 - (d) Call for the Agenda of the Day
- (4) Suspending the Rules
- (5) Division of the Council
- (6) Withdrawing or Modifying a Motion

Restorative Motion (unranked)

Restorative motions are ones that allow the City Council to change its mind on a matter. These allow the City Council to bring up a question again.

- (1) Reconsider
- (2) Discharge a Committee

Motions by Alphabetical Listing

It is often useful to have an alphabetical listing of the major motions handy. This will allow the chair of your senate to quickly verify motions made by the assembly.

Adjourning: (needs 2nd, majority vote, no debate)

Amend: (needs 2nd, majority, debatable)

Appeal: (needs 2nd, majority*, debatable)

Commit or Refer to Committee: (needs 2nd, majority, debatable)

Discharge a Committee: (needs 2nd, majority vote, debatable)

Division of the Council: (no 2nd, no vote, no debate)

Limit or Extend Limits of Debate: (needs 2nd, 2/3, no debate)

Point of Order: (no vote, no debate):

Point of Order: (no 2nd, no vote, no debate)

Call for the Agenda of the Day (no 2nd, 2/3 to not enforce, no debate)

Parliamentary Inquiry: (no 2nd, no vote, no debate)

Point of Information: (no 2nd, no vote, no debate)

Reading Papers: (no 2nd, consent or majority with objection, no debate)

Question of Privilege to Make an Urgent Request (no 2nd, no vote, no debate)

Request for Any Other Privilege: (no 2nd, consent or majority, no debate)

Postpone to a Certain Time/Postpone Definitely/Table: (needs 2nd, majority, debatable)

Recess: (needs 2nd, majority vote, no debate)

Reconsider: (needs 2nd, majority vote, debatable)

Suspending the Rules: (needs 2nd, 2/3, no debate)

Vote Immediately/Call for the Question/Previous Question: (needs 2nd, 2/3, no debate)

Withdrawing or Modifying a Motion: (no 2nd, consent or majority with objection, no debate)

Dilatory Motions

A motion is considered dilatory if it seeks to obstruct or thwart the will of the assembly as clearly indicated by the existing parliamentary situation (Robert 1981:290). Any main or other motion that is absurd in substance is dilatory and cannot be introduced. Examples include a member constantly raising points of order, repeatedly moving to lay motions on the table, or continually moving to adjourn.

Improper Motions

Motions that conflict with the organizational bylaws, with the U.S. Constitution, or with national, state or local law are considered out of order (ibid.). "Likewise motions are out of order that present practically the same question as a motion previously decided at the same session, or that conflict with a motion that has been adopted by the society and has been neither rescinded, nor reconsidered and rejected, after adoption" (Robert 1981:291-2). There is a similar rule related to the inability to renew a motion in the same session (cf. Robert 1990:330-336).

Amendments

The purpose of an amendment is to improve and perfect a motion, most often a main motion, in an attempt to make it more acceptable to the City Council. Once a motion has been moved and repeated by the Chair, permission of the mover to amend is not needed because the motion then belongs to the City Council.

Types

1. *Primary* (first-degree) amendments: affects the main motion.

Note: Two amendments of the same degree may not be considered at the same time. Any amendment must pertain to the motion on the floor. As we may recall, an amendment must be *germane* for it to be considered by the assembly. No secondary amendments (amendments to primary amendments) are permitted to be made.

Amendments Involve

1. Insert words, phrases, or sentences.
2. Strike words, phrases, or sentences.
3. Strike and insert words, phrases, or sentences.

APPENDIX G

Motions by Circumstance and Situation

The following guide lists all of the major motions allowed under parliamentary procedure. They are listed under major categories (agenda and rules of conduct, voting, etc.) and are listed in a "how-to" form making it easier to prepare for using parliamentary procedure in meetings. After a description of the motion, the type of motion being addressed is given (privileged, subsidiary, etc.).

The Agenda and Rules of Conduct

If the Agenda is Not Being Followed and You Want to Get the Chair Back on Track...

Call for the Agenda of the Day: (no 2nd, no vote*, no debate) (a.k.a. "to enforce the schedule") if the agenda is not being followed, an Council Member may call for the agenda of the day. *Must be enforced immediately unless there is a 2/3 vote to set aside the orders of the day. *Privileged.*

If a Council Member Feels that the Rules of the City Council Have Been Violated...

Point of Order: (no 2nd, no vote, no debate): when an Council Member thinks the rules of the City Council have been violated, he or she may make a point of order, thereby calling for the Chair's ruling to restore order. *Incidental.*

If a Council Member Disagrees with the Ruling of the Chair on Any Matter...

Appeal: (needs 2nd, majority*, debatable) used to appeal the chair's ruling on an issue. *a majority or tie sustains the Chair's ruling (the Chair can vote). *Incidental.*

If There is a Problem in the Room (Air Conditioning, etc.)...

Raise a Question of Privilege to Make an Urgent Request about a Person's Rights: (no 2nd, no vote, no debate) allows a request or main motion to be brought up immediately because of its urgency, while doing so would typically be called out of order. There is no debate and no vote as the chair rules on the matter of privilege or not. *Privileged.*

If a Council Member has a Question for the Chair on a Matter of Parliamentary Procedure...

Request: Parliamentary Inquiry: (no 2nd, no vote, no debate) a Council Member may request of the chair their ruling on the matter of parliamentary procedure. This is answered by the Chair. *Incidental.*

If a Council Member Wishes to Read Papers before the Assembly...

Request: Reading Papers: (no 2nd, consent or majority with objection, no debate) a request that papers be read before the assembly, usually for the purpose of gaining more information. If there were no general rule against reading, a Council Member could theoretically read from books and reports to no end. *Incidental.*

If a Council Member has a Special Request...

Request for Any Other Privilege: (no 2nd, consent or majority, no debate) may only be granted by the membership. An example being a Council Member who wishes to make a presentation when there is no pending motion. *Incidental.*

If You Wish to Discuss an Item Earlier than It is on the Agenda...

Suspending the Rules: (needs 2nd, 2/3, no debate) a motion that is used when the assembly wants to discuss an issue in a way that violates standing rules or rules of order; may not interfere with the organizational bylaws and may not be made when a question is pending. *Incidental.*

If You Wish to Adopt a Resolution without Actually Debating It on the Floor...

Suspending the Rules: (needs 2nd, 2/3, no debate) a motion that is used when the assembly wants to discuss an issue in a way that violates standing rules or rules of order; may not interfere with the state laws, organizational bylaws or ordinances and may not be made when a question is pending. *Incidental.*

Breaks of Recess and Adjourning

If You Feel Tired and You Would like to Have a Recess...

Recess: (needs 2nd, majority vote, no debate) allows for a short intermission. Acts as a privileged motion only if a main motion is pending. If no motion is pending, this motion is actually a main motion to recess. *Privileged.*

Or, Just Adjourn...

Adjourn: (needs 2nd, majority vote, no debate) *Privileged.*

Debate

If You Wish to Set a Time Limit on Speeches, Lengthen Them or Vote on a Motion at a Specific Time...

Limit or Extend Limits of Debate: (needs 2nd, 2/3, no debate) the City Council may decide to either limit or extend debate or public comment, such as the length allotted to speeches or that the question shall be put to a vote at a specific time. *Subsidiary.*

If You Wish to Have More Information on a Matter Being Debated...

Request: Point of Information: (no 2nd, no vote, no debate) a request for information about the matter being debated. Also answered by the Chair. *Incidental.*

Modifying Motions

If You Wish to Alter or Change a Main Motion While It is being Considered...

Amend: (needs 2nd, majority, debatable) allows a motion to become more specific when it is unclear or broad. This is the most common of subsidiary motions used by the City Council. An amendment must be *germane*, that is, it must have bearing on the subject of the motion being amended. *Subsidiary.*

If You Wish to Take Back or Modify a Motion You Made While It is Pending...

Request: Withdrawing or Modifying a Motion: (no 2nd, consent or majority with objection, no debate) used only when a motion is *pending*. Remember, after the Chair restates a motion or resolution, it becomes the property of the City Council. If there is an objection to consent, a Council Member may make a motion to withdraw and the City Council vote on the withdrawal of the main motion. The Chair may also request a subsidiary motion of amend. *Incidental.*

Voting

If You Wish to Immediately End Discussion of a Question and Take an Immediate Vote...

Previous Question: (needs 2nd, 2/3, no debate), (a.k.a. "motion to close debate" or "vote immediately") when Council Members wish to bring a motion to an immediate vote they may "move the previous question" to limit discussion. *Subsidiary.*

If a Member Questions the Result of a Vote...

Division of the Council: (no 2nd, no vote, no debate) (a.k.a. "calling for a division," not to be confused with the "division of a question") if any Council Member questions the result of a voice vote or a show of hands, she may call for a division, thereby requiring the vote be taken again by roll call. *Incidental.*

Postponing Motions

Postpone to a Certain Time: (needs 2nd, majority, debatable) (a.k.a. "postpone to a certain time") allows the City Council to postpone consideration of a question to a future time or date. *Subsidiary.*

If You Wish to Send a Motion to a Committee for Further Study and/or Redrafting...

Commit or Refer: (needs 2nd, majority, debatable) allows the motion to be sent to a committee for further study or redrafting. *Subsidiary.*

Rethinking, Revisiting, Reconsidering

If You Wish to Take a Second Look at a Motion which was Passed...

Reconsider: (needs 2nd, majority vote, debatable) allows a group to reconsider the *vote* on a motion. If the Motion to Reconsider passes, then a new vote on a previous main motion/matter is carried out by the City Council. There is a time limit on any Motion to Reconsider which is that a Motion to Reconsider must be during the same City Council when the first vote on the subject was taken but before any act has transpired from the vote on the main motion. A Motion to Reconsider made only be made once on any main motion vote. Another Motion to Reconsider cannot be made again if a previous Motion to Reconsider has been made on the main motion vote and has failed. *Restorative.*

Committees

If You Wish to Send a Motion to a Committee for Further Study and/or Redrafting...

Commit or Refer: (needs 2nd, majority, debatable) allows the motion to be sent to a committee for further study or redrafting. *Subsidiary.*

If You Wish to Remove a Matter from a Committee's Hands...

Discharge a Committee: (needs 2nd, majority vote, debatable) allows the City Council to take a matter out of a committee's hands, before the committee has formulated a report, and allows the City Council itself to deal with the issue. "So long as a question is in the hands of a committee, the City Council cannot consider another motion involving practically the same question." *Restorative.*

If You Wish to Move for Less Formal Consideration...

Commit or Refer (to Informal Consideration): (needs 2nd, majority vote, debatable) allows the City Council to enter into less formal discussion among Council Members of the City Council by removing the number of times and amount of time an Council Member can debate on a question. *Subsidiary.*

APPENDIX H

Committees

A committee, as understood in parliamentary law, is a body of two (2) or more persons, elected or appointed by an assembly to consider, investigate, or take action on certain matters or subjects, or to do all these.

Committees are the workhorses of an organization. Since they do the bulk of the work in a particular area for the organization to keep the organization functioning, their importance cannot be overestimated. Committees can take the time and care to explore all sides or options, with more exchange of opinions, where the organization usually operates within a control time frame. Since committees can work more efficiently and are part of the overall organization, their recommendation carry weight to the full organization. *Riddick's Rules of Procedure, Page 48.*

Members of an organization share in the work and responsibilities of the organization through committee service. Recommendations from committees often become the final decision of organizations. Most well-run business meetings spend considerable time on committee reports and recommendations. Usually the conclusions of committees are accepted as the conclusions of the organization. *American Institute of Parliamentarians, Standard Code of Parliamentary Procedure, Ch. 21, Page 187.*

Committees are valuable and should never become burial grounds for issues that members want to avoid; nor should they be used to reward members or friends or to placate troublemakers. Committees render valuable service and can be excellent training grounds for future leaders of an organization. *American Institute of Parliamentarians, Standard Code of Parliamentary Procedure, Ch. 21, Page 187.*

Committee meetings are governed by basically the same procedures as meeting of the organization. Committees can be much more informal, however, and their Chairs often initiate the matters to be considered and enter debate like any other member. There is no restriction on the number of times a member may speak. The quorum for a committee meeting is a majority of its members. *Cannon's Rules of Order, Ch. 7, Page 84.*

A good committee Chair should be qualified for the job. Any good Chair knows that the Chair alone does not constitute the committee, but is only an integral part of it. The Chair should be dynamic and positive, forceful and make positive contributions to the conduct of the committee. The Chair should have knowledge of how to conduct a meeting informally but correctly, how to handle personal relationships, and be able to keep an open mind. The Chair takes an active part, participating fully, making motions, debating and voting. *Riddick's Rules of Procedure, Page 52.*

Committee meetings should be held regularly and as many should be called as needed to conduct the business of the organization. They should began at the appointed time. Committees should meet at a time convenient for the majority. If more than one (1) meeting is required, a meeting may adjourn at the call of the Chair or the next meeting may be prearranged by the committee. A committee may even appoint from its own members, subcommittees, which are answerable only to the committee. An organization may always give instructions or advice to a committee to consider. *Riddick's Rules of Procedure, Page 52-53.*

Advantages of Committees

A committee has many advantages that enable it to work more efficiently than the larger parent organization. Some of these advantages are:

1. Greater freedom of discussion is possible.
2. More time is available for each subject.
3. Informal procedure can be used.
4. Better use can be made of experts and consultants.
5. Delicate and troublesome questions may be settled in a less formal setting.
6. Hearings may be held giving members an opportunity to express their feelings.

To function effectively, a committee, and especially its Chair, needs to have:

1. A list of committee members.
2. A copy of the motion or problem referred to the committee.
3. Special instructions to the committee, if any. These instructions should include a statement of exactly what the committee is expected to do, and whether the question is referred to it for discussion, study, hearings, investigations, recommendations, or action.
4. A statement of the powers and duties of the committee.
5. Copies of all papers or correspondence relating to the subject assigned to the committee.
6. Copies of any rules, policies, or decisions of the organization relating to the subject.
7. Information on the type of report desired and the date set for its presentation.

Reports from committees should minimally contain:

1. A statement of the charge to the committee
2. A statement of the methods employed by the committee in accomplishing its charge.
3. A summary of information gathered or work done.
4. A statement of conclusions or findings.
5. A specific recommendation, together with a rationale for that recommendation.
6. The names of the members on the committee.
7. A summary (often called an "executive summary" at the beginning of the report is helpful for long reports.

The next appendix elaborates the nature and content of committee reports.

APPENDIX I

The Committee Report

By whom should the report be prepared? Usually a member of the committee (often the Chair or a recorder, but it could be anyone) prepares a draft of the report. All members of the committee should be given opportunity to review and revise the draft before it is submitted. It is not the drafter's work product, but the product of the entire committee.

To whom should the report be made? In most cases the committee is addressed to the City Council. Occasionally, particularly at the direction of the authority, a report may go to other individuals or organizations.

What form should the report take? There is no universally mandatory form, but some principles help guide us. Reports should go forward with a written and an oral report; both should be planned carefully to be effective. Exactly what goes into each depends on a large number of factors: the audience, the nature of the problem and the solution, time available, how much information is needed by the higher authority for decision making, and so forth. The report should be prepared and organized to accomplish two ends: (1) to persuade the higher authority to adopt the report & its recommendations and (2) to facilitate the decision-making of the higher authority. A reports need not necessarily be long (being too long may discourage anyone from reading it), but needs to be long enough to competently and persuasively present the plan and justify it to the higher authority. Whatever format is decided upon, the report should meet high professional standards: typed, spell and grammar checked, etc.; a computer and printer makes this easier.

What content should the reports contain? The report should be written to have an impact on those who read it. After reading the content, the reader must be convinced the conditions the proposal seeks to remedy are serious enough to justify action, understand the details of the proposal and how it will remedy the problem conditions, and be assured that the proposal is practical, reasonable, and will bring no undesirable side outcomes. The reader must also believe the proposal is the best alternative. Although the content and organization of the content is flexible and should be adapted to each situation, several content elements are usually "necessary" to fulfill the functions of a report:

Executive Summary. Especially in longer reports (probably over 8 pages), it is a good idea to have an Executive Summary in which the whole report (including purpose, problem, solution, rationale, and recommendations) is summarized in a few paragraphs, not to exceed one page in length. Explain the purposes of the report. Is it an interim or final report? Is it to outline factual findings, conclusions, or recommendations? Is it to summarize actions of the committee or does it propose a project or program in solution to a problem?

Preamble. A preamble or introduction contains boilerplate information (such as the name of the committee and the names of the members), a statement of the charge or mission given to the committee (making the organizational context of the report clear), and a review of the procedures used in the problem solving process.

Background. The report should give needed background on the nature of the problem indicating a need for a solution. Succinctly and objectively, the committee's factual findings and conclusions about the nature of the problem, its causes, its effects, and related matters should be presented. Appropriate documentation should be given. If there

is a large amount of material as a result of the committee's work, often this material is best summarized briefly in the report with supporting documents placed in an appendix.

Proposed solution. The report should give a detailed presentation of the solution to the problem, including an implementation plan, organizational chart, and budget. An implementation plan can include such things as

- 1. Goals and objectives.** Goals point to the qualitative ideals or values the solution supports; they inspire motive and enable unity of action. Objectives are the statement of particular activities which, if achieved, result in the accomplishment of the goals.
- 2. Statement of personnel.** From goals and objectives, we derive particular tasks that can be done by particular individuals. Often an organization chart makes clear the various task roles and their interrelationships. Reports should make clear what people will be assigned to which tasks and task roles.
- 3. Space, materials, and logistics.** The proposal must make clear what resources are needed, including facilities, communications, computers, telephone, mailing, etc.
- 4. Finances and budget.** Linked to the above, the costs of the program (personnel, materials, mailing, gasoline, etc.) should be clearly and accurately projected. If possible, the plan should also indicate the source of funds.
- 5. Time.** The report should project a timetable for the accomplishment of the various objectives and tasks to facilitate the operation of the plan. Who is to do what by when?
- 6. Evaluation and impact.** Proposals are more likely to be approved if the higher authority has a clear idea of how to tell if the investment of time and money was worth it. Explain how to evaluate the success of the program. Specify who will be affected or inconvenienced by the new program.

Rationale. The report should make an argued defense of the proposed solution, generally including (1) how the plan will meet the need; (2) why the plan is desirable in light of relevant absolute and/or relative criteria; and (3) why the plan has advantages and fewer disadvantages compared to alternative responses to the problem, including doing nothing.

Recommendation. The report should clearly present a request for the City Council to take some action on the work of the committee; sometimes this function is done in the Preamble. For example, if the committee's function is largely advisory, then the report should request that the committee be informed of actions or decisions on the matters covered in the report. If the committee's role was to provide information, then the request might be that the receipt of the information be acknowledged. If the committee's role was decision-making or action-taking, then the request should be for feedback to guide future work.

APPENDIX J

Origins of Parliamentary Procedure and Law

Definition of parliamentary law. Parliamentary law gets its name and basic principles from the Parliament of Great Britain. Courts have defined parliamentary law as "the rules and usages of Parliament or of deliberative bodies, which takes its name from the British Parliament and on the practice of which it mainly originated, with such changes and modifications in American deliberative assemblies as have been necessary to adapt it to the usages of this country.

In other words, the term parliamentary law refers to the rules, laws or regulations of organizations, governing the orderly, expeditious and efficient transaction of business at meetings and conventions. Without rules there would be injustice and confusion. Hence, it is as necessary to follow the rules of parliamentary law as it is to follow the rules of a ball game or a card game. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1.*

What is Parliamentary Law? Parliamentary law "is a system of rules that are designed to protect the rights of those people attending and running a meeting" (PLI 1995:6). Procedurally, the "object of rules of order is to facilitate the smooth functioning of the assembly and to provide a firm basis for resolving questions of procedure that may arise" (Robert 1981:12-13). The procedural standards established by rules of order allow an assembly to focus on the specific issues to which it is charged. The basic provisions of parliamentary law include:

1. Ensure the right of the majority
2. Protect the rights of the minority
3. Defend the rights of individual members
4. Safeguard those people absent from the meeting
5. Guard all these together (Robert 1990:xliv).

A deliberative assembly is "free to do whatever it must to ensure these protections to all members" (PLI 1995:6). Accordingly, each assembly must borrow and adopt Robert's Rules as it sees fit. As Lehr Fess suggested, "all law is based on custom. Like the common law, parliamentary law is largely based upon the customary practices regulating procedure in group action as developed throughout the centuries. While the fundamental rules are applicable to all group action, a wide difference in detail must necessarily exist when the rules are applied to different groups" (in Jones 1971:ix). The *parliamentary authority*, the rules of order specific to any given organization (Robert 1981:3), varies from society to society. As General Robert had suggested, it is important that the deliberative assembly, regardless of its purpose, membership and the like, should maintain parliamentary authority consistent with other deliberative assemblies, if not for consistency alone.

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Derivation of the word parliamentary. The word "parliamentary" is derived from the French parler (to speak, discuss, or deliberate), and obviously refers to the body or code of rules, regulations or laws and practices of deliberative bodies. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1.*

Parliamentary law in ancient times. Parliamentary law, by which is meant orderly deliberation and action by an assembly of persons or a body of citizens, was nonexistent before 750 B.C.

Prior to 750 B.C. all gatherings of the people were held under the strict authority of the father of the family (paterfamilias) or under the despotic rule of kings and viceroys. Gatherings then were convened only for deity worship or for war and defense measures. They were never

convened to discuss affairs of government, or to deliberate and to vote on public questions. The people had no share in government, and no voice or vote in it.

About 750 B.C. the idea of self-government, with the right to deliberate in assembly and to speak and vote on public questions, was conceived in Greece, the "cradle of liberty."

The Greeks instituted the Athenian *Agora* or general assembly, equivalent to the American town meeting, consisting then of the whole body of male citizens above eighteen years of age. The general assembly met forty times each year on the Acropolis, the famous hill in Athens where any citizen could address the meeting from a stone platform called *Bema* and vote on questions before the assembly.

This novel and ingenious Grecian concept of self-government gradually captured the fancy of the Romans, who, some three hundred years later (c. 450 B.C.E.), adopted it and expanded it with the institution of the Roman Forum, or meeting place of the people, where Roman orators addressed the general assembly from the Rostra (a stone platform) on the Palatine-Capitoline hills in Rome. The people afterward voted on pending questions.

From such beginnings did parliamentary and democratic processes of self-government begin to evolve. They were conceived in Athens c. 750 B.C., expanded by Rome in 450 B.C., then systematized by the British Parliament some two thousand years after the institution of the Greek *Agora*, and, since 1789, broadened and perfected by the U. S. House of Representatives into a system that ranks second to none. The House's rules of parliamentary law today are "perhaps the most finely adjusted, scientifically balanced, and highly technical rules of any parliamentary body in the world. Under them a majority may work its will at all times in the face of the most determined and vigorous opposition of a minority" (*Lewis Deschler, U. S. House Rules and Manual, p. vi*). *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1.*

Origin of parliamentary law as a science. The rules of parliamentary law as a science originated in England in the British Parliament of the thirteenth century. They then spread rapidly to other parts of the world, with each nation modifying them to suit its own system of parliamentary practice.

Parliamentary law was introduced in the United States by the American colonists, and was used in their town meetings, colonial legislatures, and other assemblies both public and private. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1.* Along with parliamentary law, the colonies also brought common law and other political institutions of England. Jefferson, as presiding officer of the Senate, looked to the procedure of Parliament as his guide and prepared his manual from English precedents. The state legislatures and local governmental bodies copied from Congress. However, the procedure of the state legislatures, local legislative bodies and voluntary associations now differs greatly from the procedure of Parliament and Congress. While Congress is governed largely by rules adopted by the houses of Congress to meet their local and special needs, the state legislatures-and, particularly, the more local bodies, both public and private-are governed by a branch of the common law based upon court decisions and upon precedents and customs of deliberative bodies. There are some important differences between parliamentary law as applied in public bodies and as applied in voluntary associations. *Mason's Manual of Legislative Procedure, Ch. 6, §38.*

English Law. The customs and rules derived from the English Parliament provided the following guidelines:

1. Treat one subject at a time
2. Alternate between opposite points of view in discussion
3. Always have the chair tally votes for both sides of the issue

4. Maintain decorum in discussion and avoiding personalities in debate
5. Confine debate to the merits of the question under discussion (PLI 1995:4).
6. Division of a question—members may be for one part of a question and not for another (Robert 1981:xxx).

These rules applied to a *deliberative assembly*, "a group of people meeting to decide on a common action" (PLI 1995:5).

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Early Developments in American Parliamentary Law: Jefferson and Cushing - In 1801 Thomas Jefferson published the first book on parliamentary law, *Manual of Parliamentary Practice*. Jefferson, in response to the publication of his guide, wrote, "The proceedings of Parliament in ancient times, and for a long while, were crude, multiform, and embarrassing" (ibid.).

In 1844 Luther Cushing, clerk of the Massachusetts House of Representatives, published the *Manual of Parliamentary Practice: Rules of Proceeding and Debate in Deliberative Assemblies*. The manual soon was known as "Cushing's Manual." It was the first sourcebook on parliamentary law that spoke to the procedural needs of the many growing voluntary societies in the United States (Robert 1981:xxxv).

General Henry Martyn Robert - Eventually parliamentary law was being used at all levels of government, yet the rules for deliberative assemblies had not yet been modified for use by smaller organizations. Henry Martyn Robert, an army engineer, took about the task of making such a modification. Though originally conceiving of a work of less than twenty pages, General Robert's "manual" eventually encompassed over two hundred pages and was published as Robert's *Rules of Order* in 1876. By 1915 more than one half a million copies of the guide were in print and soon Robert's manual would become a standard for deliberative assemblies everywhere. Today, there are over 4.5 million copies of Robert's *Rules of Order* in print.

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The object of parliamentary law. The object of parliamentary law to be *to transact the assembly's business legally and to control the conduct of its members*. Other authors conceive it as follows:

JEFFERSON: "To attain accuracy in business, economy of time, order, uniformity and impartiality."

CUSHING: "To subserve the will of the assembly rather than to restrain it; to facilitate, and not to obstruct its deliberate sense."

ROBERT: "To enable an assembly, with the least possible friction, to deliberate upon questions in which it is interested, and to ascertain and express its deliberate sense or will on these questions."¹
Demeter's Manual of Parliamentary Law and Procedure, Ch. 1.

Other names for parliamentary law. Parliamentary law is known by several other names: parliamentary law and procedure, parliamentary practice, parliamentary law and practice, rules of order, etc. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1.*

¹ *Notes on the above authors:* Thomas Jefferson, third President of the United States, was born in 1743. He was a civil engineer. He attended the College of William and Mary, and studied law in a law firm in Williamsburg. He was the author of *Jefferson's Manual*. Luther S. Cushing, born in 1803, served in the Massachusetts Legislature. A lawyer, he taught law at Harvard. He was the author of *Cushing's Manual*. Henry M. Robert was born in 1837. He was a graduate of the U. S. Military Academy at West Point and a superintendent of the Academy. He was a U. S. Army engineer and a general. He was the author of *Robert's Rules of Order*. George Demeter, lawyer, Massachusetts legislator, and author of *Demeter's Manual*, was born in 1900. He is a graduate of Harvard College and Boston University Law School.

APPENDIX K

Glossary of Parliamentary Procedure and Law

This Glossary is to provide a quick easy read for terms commonly used in parliamentary procedure and law. Should any term conflict with terms contained in Sections 1 thru 16 in this Rules of Procedure, the terms contained in Sections 1 thru 16 shall take precedence over the terms of this Glossary.

Abstain-To verbally refrain from voting. Frequently the reason for abstaining is a conflict of interest.

Abstention-The result of abstaining from voting. Under the state law an abstention is not voting, but the Council Member who abstains still counts towards the total membership of City Council in the requirement of a majority of the whole City Council for the passage of any ordinance, resolution, motion or order.

Accept-To adopt or approve a motion or report. The effect of accepting, adopting, or approving a report is the City Council endorses the report in its entirety, every word of it.

Acclamation-An election by unanimous consent.

Ad hoc-A special committee. The term comes from a Latin term meaning “to this” and refers to a committee formed for a particular purpose.

Adhering to the motion-A motion is considered adhering to the motion or question if it is made while the motion it is adhering to is pending. For example, a main motion is made. While it is being discussed, an Amendment is made to that Main Motion. The Amendment is adhering to the main motion. Adhering motions remain connected to the main motion even if the motion is interrupted, Referred, Postponed, or temporarily disposed of.

Adjourn-A motion to close the meeting.

Adopt-To accept or approve a motion or report. The effect of accepting, adopting, or approving a report is the assembly endorses the report in its entirety, every word of it.

Affirmative vote-A vote in favor of the adoption of the motion.

Agenda-A predetermined sequence of items of business to be covered at a specific meeting; an order of business. The City Council’s Parliamentary Rules call for: (a) Call to Order – Roll Call; (b) Prayer; (c) Pledge of Allegiance; (d) Approval of the Minutes; (e) Mayor’s Report; (f) Treasurer’s Report; (g) Committee Reports; (h) Special Business; (i) Unfinished Business; (j) New Business; (k) Appropriations and Line Item Transfers; (l) Late Agenda Items (if any) (m) Late Agenda Appropriations and Line Item Transfers (if any) (n) Adjournment.

Agenda Item of the day-A business item that is scheduled on the regular or special meeting agenda to be taken up during the particular meeting.

Amend-A motion to modify the pending motion before it is voted on.

Amend by adding-One of the forms of a motion to Amend. This form places a word or consecutive words or a paragraph at the end of a motion.

Amend by inserting-One of the forms of a motion to Amend. This form places a word or consecutive words or a paragraph in the beginning or the middle of a motion.

Amend by striking out-One of the forms of a motion to Amend. This form takes out a word or consecutive words or a paragraph in a motion.

Amend by striking out and inserting-One of the forms of a motion to Amend. This form strikes out a word or consecutive words and inserts a word or consecutive words in its place.

Amend by substituting-One of the forms of a motion to Amend. This form strikes out a paragraph or more and inserts another paragraph or more.

Amendable-When a motion is amendable, it can be modified during the time it is pending.

Amendment-A motion that proposes a change to the wording of a pending motion.

Announcement of the vote-The sixth step in the processing of a motion. In a complete announcement, the chair states the following: the results of the vote, declaration of whether the motion passed or failed, the effect of the vote, and the next item of business.

Appeal from the Decision of the Chair (Appeal)-A motion to take a decision regarding parliamentary procedure out of the hands of the Chair and place the final decision in the hands of the City Council.

Appoint-To name or assign a person to an office, a position, or a committee.

Appropriation Ordinance-A written record of an appropriation of the City Council. It is not an ordinance as defined in Section 6 of these Rules of Procedure and not subject to the requirements affecting an ordinance. AGO 92-027; 96-328.

Approve-This term is synonymous with ratify, confirm, adopt, or accept. The effect of accepting, adopting, or approving a report is the City Council endorses the report in its entirety, every word of it.

Aye-Word frequently used in a voice vote to vote in the affirmative. For example, "All those in favor of the motion, say 'aye'."

Budget-The itemized estimate of income and disbursements.

Business-An item or matter brought up at a meeting in the form of a motion, for action by the assembly.

Call for the Agenda of the Day-By the use of this motion, a single member can require the City Council to follow the order of business or agenda, or to take up a special order that is scheduled to come up.

Call the Roll-A method of taking a vote or of determining attendance of members in which each member's name is called out and members publicly announce their vote or their presence.

Called Meeting-Another term for a special meeting.

Calling a Council Member to Order-An order from the Chair to a member to stop an inappropriate action and be seated. If the Chair does not call to order a member behaving inappropriately, another member may call that member to order.

Censure-A motion to reprimand or admonish a member. The only consequence of this motion is the admonishment or reprimand.

Chair-The person who is in charge of the meeting. Presiding officer and Chair are interchangeable terms. They both are sometimes used to refer to the president of the organization when the president is conducting the meeting.

City-Means the City of Russellville, Arkansas, a first class city, a political subdivision and municipal corporation organized and incorporated under the laws of the State of Arkansas. The City was incorporated on June 7, 1870.

City Attorney-Officer who serves as the legal advisor and Parliamentarian for the City Council.

City Clerk-Treasurer- The recording officer whose duty it is to maintain the records of the organization.

City Hall-The building where the Mayor's Office, City Attorney's Office, Finance Department and City Council Chamber is located. City Hall for the City of Russellville, Arkansas, is located at 203 South Commerce Avenue.

Close Debate-Termination of debate in the processing of the motion. It occurs when the Chair ends debate because no one else wants to speak, or with the adoption of the Previous Question motion.

Commit or Refer to a Committee-This motion sends the Main Motion to a smaller group (a committee) for further examination and refinement before the body votes on it. Be sure to be specific which committee, size of committee, and so on.

Committee-A group of two (2) or more persons who are appointed or elected to carry out a charge. The charge can be to investigate, to recommend, or to take action.

Committee Meeting-The larger group frequently assigns specific tasks to a committee. When they assign the task, they usually give the committee a specified level of authority to carry out the task. That authority may be to research the subject and make a recommendation to the larger group or it may be to make a decision for the larger group and carry out that decision. That group comes together to meet and, based on the authority given them, takes the action directed by the larger group.

Committee Report-An official statement that is formally adopted by a majority vote of the committee and that is presented to the City Council in the name of the committee. It contains information obtained, information regarding action taken, or recommendations on behalf of the committee.

Conflict of Interest-A situation in which a Council Member has a direct personal interest not common to the other Council Members.

Consideration of a Question-The discussion that occurs during Step 4 of the processing of a motion, while the motion is pending.

Convene-To initiate a meeting by calling the meeting to order.

Custom-A long established practice of an organization. If a custom is found to be in violation of the state law, ordinances, rules, or parliamentary authority, and a member challenges that, the custom must cease.

Debatable-When a motion is debatable, the members may discuss it during debate of the processing of the motion. Undebatable motions must go immediately to the vote on the motion.

Debate-The discussion of a motion that occurs after the presiding officer has restated the motion and before putting it to a vote.

Decorum-To conduct oneself in a proper manner. Usually refers to debate, as in decorum in debate.

Decorum in Debate-Appropriate behavior during debate. *Robert's Rules* lists nine such debate rules, including not attacking another member's motives, addressing comments through the Chair, and so on.

Defer Action-Using specific motions to delay action on a motion.

Dilatory-A motion, action, or statement that's purpose is to delay action. It is an attempt to obstruct the will of the City Council.

Discharge a Committee-A motion that relieves a committee from further consideration of the task that has been assigned to it.

Disciplinary Procedures-The City Council has a right to make and enforce rules, and to require Council Members to refrain from conduct that hurts the City Council. Therefore a society has the right to discipline its Council Members, following very specific procedures that are outlined in *Robert's Rules*.

Discussion-Debate that occurs after the presiding officer restates the motion and before the vote is taken on the motion.

Dispense with the Reading of the Minutes-This motion, if adopted, delays the reading of the minutes to a later time in the meeting. In most contemporary organizations, the minutes are distributed in advance of the meeting and, therefore, there is no need to read them at the meeting.

Dispose of-Action on a motion that removes it from consideration by the City Council. A motion is considered permanently disposed of when it has been approved or defeated by vote of the City Council.

Division of the City Council-The effect of this motion is to require a roll call vote. A single member can demand this if he or she feels the vote is too close to declare or is unrepresentative. This motion can only be used after the voice vote where there is a reasonable doubt of the results.

Entertain a Motion-A request, usually from the presiding officer, for a formal motion on the subject under discussion.

Executive Session-A meeting or a portion of a meeting in which the proceedings, if allowed by state law, are private and the only attendees are the Council Members of the City Council, the Mayor and any other persons authorized by state law to be permitted to attend. Deliberations of an executive session are private and all attendees are honor-bound to maintain confidentiality. No final action or vote on an issue may take place in executive session.

Ex-Officio-Latin for "from office". A person is a member by virtue of an office held. An ex-officio member has full speaking rights but no voting or motion making right on the committee he or she is an ex-officio of unless otherwise prescribed by law.

Finance Director-The officer entrusted with the custody of the City Council's funds and the maintenance of the financial records of the City Council.

Floor-A member has the floor when he has been recognized by the chair to speak. A member is "assigned the floor" by the presiding officer. During that time no one else is to speak until the floor is assigned to another. A motion is considered on the floor when it is in debate of the processing of a motion; when it is pending.

Friendly Amendment-A proposed Amendment that is perceived to be acceptable to the entire assembly. This Amendment should be processed just like any other Amendment, following the steps of any other motion, even if the maker of the motion "accepts" the Amendment. If it is obvious all members are in agreement with the minor change, it can be adopted by unanimous consent.

Frivolous Motion-A motion proposed that is not significant or is dilatory (intended to delay or obstruct business of the City Council).

Fundamental Principle of Parliamentary Law-Rules in parliamentary procedure that protect the basic rights of the individual member. These rules cannot be suspended. An example is that the right to vote is limited to the members as defined in state law. Therefore, the rules cannot be suspended to allow nonmembers to vote.

Gavel-A mallet used by the presiding officer to bring order to the meeting and keep order throughout the meeting. A gavel is a symbol of parliamentary procedure and of the presiding officer.

General Consent or Unanimous Consent-A method of voting without taking a formal vote. The presiding officer asks if there are any objections, and if none are expressed, the motion is considered passed. If any objection is expressed, the motion must be processed using the six steps.

General Orders-A category of the agenda that includes any motion which, usually by postponement, has been made an agenda item of the day at the next regular City Council meeting without being made a special order. Translated, that means that if an item is postponed until a certain day or after a certain event, it fits into this category.

Germane-Related to the subject. An Amendment must be germane to the motion it is amending. A Secondary Amendment must be germane to the Primary Amendment it is amending. For example, the Main Motion is "I move that we purchase a computer." A germane Amendment might be to add "not to exceed \$3,000.00." An Amendment not germane would be to add "and an exercise bicycle."

Governing Documents-The rules of the City Council. They include federal law, state law, rules of order, standing rules, and policies and procedures.

Hearing-An informal meeting of a group that allows members to express their views and listen to the views of others on a particular subject.

Immediately Pending-A motion is considered immediately pending when several motions are pending and it is the motion that was most recently stated by the Chair and is the one that will be first disposed of.

In order-An action following correct parliamentary procedures.

Incidental Main Motion-A *Main Motion* that is incidental to, or related to, the business of the assembly, or its past or future action. An example is a motion to fix the method of making nominations if made before the election is pending.

Incidental Motions-Motions that relate to matters that are supplementary to the conduct of the meeting rather than directly to the Main Motion. They may be offered at any time when they are needed. Motions in this classification include: *Point of Order, Appeal from the Decision of the Chair, Objection to Consideration of a Question, Suspend the Rules, Division Of The City Council, Division Of The Question, Parliamentary Inquiry, Point of Information, Request To Be Excused From A Duty, Request For Permission To Withdraw A Motion, Request To Read Papers, and Request For Any Other Privilege.*

Indecorum-improper or disorderly behavior.

Informal Consideration or Informal Debate-This motion allows the City Council to exchange ideas on an informal basis with more freedom of debate than in a formal City Council meeting. Informal consideration is the standard operating procedure in all committees of the City Council, standing or special. Informal consideration must be made as a motion at a regular or special City Council meeting in the form of a motion to refer or commit to informal consideration in order to debate a question informally.

Invocation-the action of invoking something or someone for assistance or as an authority.

Item of business-An agenda item, including a report or a motion. The Chair usually announces it by stating “the next item of business . . .”

Legal Vote-A vote cast by a Council Member or Mayor that is entitled to vote.

Limit or Extend Time of Debate-This motion can reduce or increase the number and length of speeches permitted or limit the length of debate on a specific question.

Lost Motion-A motion rejected by a vote of the assembly.

Main Motion-A motion that brings before the City Council any particular subject and is made when no other business is pending. If passed, it commits the assembly to do or say something. Motions in this classification include: *Original Main Motion* and *Incidental Main Motion*.

Majority-More than half of the whole number of Council Members of the City Council.

Majority Report-An incorrectly used term for the report of the majority of the members of a committee. Instead, it should simply be referred to as the committee report.

Majority Vote-A majority vote requires more than half of the whole number of Council Members of the City Council to vote on one side of an adoption of a bylaw, ordinance, resolution or order during the City Council meeting.

Making the Motion to Reconsider-The motion to *Reconsider* can be divided into the making of the motion and the actual consideration of the motion, referred to as calling up. The making of the motion to *Reconsider* has higher ranking than the consideration of the motion. Therefore, there are times that the motion can be made, but not yet considered. Just the making and seconding of the motion to *Reconsider* temporarily suspends actions stemming from the vote it is proposed to *Reconsider*. That suspension lasts until the vote on *Reconsider* is taken. Also see Call up the Motion to Reconsider.

Mayor-for the purpose of parliamentary procedure the person charged under state law to be an ex-officio member of the City Council who serves as the presiding officer and referred to as the Chair for regular and special meeting of the City Council. The Mayor also serves as the presiding officer of the Committee of the Whole on subjects other than finance/property or personnel issue unless the Mayor defers to another Council Member.

Meeting-An assembly of members gathered to conduct business during which there is no separation of the members except for a short recess.

Minority Report-A formal expression of the views of a portion of the committee or group that are not in agreement with the majority stand on an issue. Can only be allowed if approved by motion and vote to be heard by the City Council.

Minutes-The written record of the proceedings of the City Council taken by the City Clerk-Treasurer. They are a record of what was done at the meeting, not what was said at the meeting.

Moment of Silence-a period of quiet contemplation, prayer, reflection, or meditation.

Motion-A proposal that the group take a specific action or stand. Motion and question are interchangeable terms.

Motions that Bring the Question Again Before the Assembly-Motions that are used to bring back a motion that has already been considered by the City Council. Motions in this classification include: *Reconsider*.

Move-The word used to make a motion: “I move that....” or “I move to....”

Mover-The person who makes the motion.

Nay-Word frequently used in a voice vote to vote in the negative. “All those opposed to the motion, say ‘nay’.” *Robert’s Rules* recommends simply using the word “no.”

Negative vote-A vote against the adoption of the motion.

New business-A heading on the agenda for items that are new items of business.

Nomination-Naming a person as a candidate for an office or position.

Nominee-A person who has been nominated.

Notice-An official announcement, given verbally or in writing, of an item of business that will be introduced at the meeting. Certain motions require previous notice.

Null and Void-Without legal force or effect.

Objection-A formal expression of opposition to a matter or procedure.

Obtain the Floor-Secure recognition from the presiding officer to either speak or make a motion.

Officer-A person who has been appointed or elected to an official position in the organization.

Old Business-An incorrect and misleading term for the part of the agenda properly called unfinished business. Old business is misleading because it indicates that anything that the group once talked about fits here. The only business that fits in unfinished business is business that was started but not yet finished.

On the Floor-A motion is considered on the floor when it has been stated by the presiding officer and has not yet been disposed of either permanently or temporarily. Pending and on the floor are interchangeable terms.

Order of Business-The schedule of business for the meeting; the agenda.

Original Main Motions-Those motions which bring before the City Council a new subject, sometimes in the form of a resolution, upon which action by the assembly is desired.

Out of Order-A motion, action, request, or procedure that is in violation of the rules of the City Council.

Ownership of a Motion-A concept that refers to whose property the motion is at a given time and, therefore, who has a right to make any changes to it. In the six steps of the motion process, the maker of the motion owns the motion up until the Chair restates the motion to the City Council. After the Chair states the motion to the City Council, the ownership of the motion is transferred to the City Council.

Parliamentarian-For the City Council, a Parliamentarian is the City Attorney who advises the City Council on parliamentary law and procedure issues.

Parliamentary Authority-The set of rules a group adopts as the rules that will govern them. The parliamentary manual adopted by the City Council to serve as the governing authority. *Robert’s Rules* is the parliamentary authority for the vast majority of the organizations in the United States, and for many organizations in other countries.

Parliamentary Inquiry-A question directed to the presiding officer concerning parliamentary law or the City Council’s rules as they apply to the business at hand.

Parliamentary Law-The established rules for the conduct of business in deliberative assemblies. The terms parliamentary law and parliamentary procedure are frequently used interchangeably.

Parliamentary Procedure-A system of rules for the orderly conduct of business. The terms parliamentary law and parliamentary procedure are frequently used interchangeably.

Pending-A motion is considered on the floor when it has been stated by the presiding officer and has not yet been disposed of either permanently or temporarily. Pending and on the floor are interchangeable terms and refer to the debate process in the processing of a motion.

Point of Information-A nonparliamentary question about the business at hand.

Point of Order-If a member feels the rules are not being followed, he or she can use this motion. It requires the chair to make a ruling and enforce the rules. Avoid overuse; save it for when someone’s rights are being violated.

Point of Personal Privilege-Another phrase used for a *Question of Privilege*. An urgent request or motion relating to the privileges of a Council Member of the City Council.

Policies and Procedures-Some organizations have additional detailed rules and guidelines regarding the administration of the organization.

Postpone Definitely-See *Postpone to a Certain Time*.

Postpone to a Certain Time or Postpone Definitely-If the body needs more time to make a decision or if there is a time for consideration of this question that would be more convenient, this motion may be the answer. If a group meets quarterly or more frequently, the postponement cannot be beyond the next session.

Preamble-The first part of a resolution or ordinance that contains the “whereas” clauses. It’s the portion of the resolution that explains the reasons for the motion.

Precedence of Motions-A rank of motions indicating the order in which specific motions should be processed. When a motion is immediately pending, any motion above it on the Precedence of Motions is in order and any motion below it is out of order. In this book the terms ladder of motions and precedence of motions are used interchangeably. Precedence of Motions applies only to the following motion, in the following order:

1. *Adjourn.*
2. *Recess.*
3. *Vote Immediately.*
4. *Limit or Extend Time of Debate.*
5. *Postpone Definitely.*
6. *Commit or Refer to a Committee.*
7. *Amendment:* Amend a motion.
8. *Main Motion.*

Precedent-A decision or course of action that serves as a rule for future determinations in similar cases.

Present-A Council Member who is physically in attendance in the City Council or committee meeting.

Present and Voting-A Council Member who is physically present at the meeting and who casts a vote on a motion. A Council Member who abstains is considered present but not voting either yes or no. In the case of a vote on a question subjected to the present and voting requirement having a quorum present, the motion is passed if there are more yes votes than no votes regardless of how many abstentions are recorded and regardless if there are less yes votes than the number of composing the quorum.

Preside-The chairing of a City Council or committee meeting.

President Pro Tem-A Council Member chosen to preside over a regular or special meeting if the Mayor is absent from the meeting. The President pro tem position rotates each month to a different Council Member. The schedule of the rotation is decided at the first City Council meeting of the year when the City Council organizes itself.

Presiding Officer-The person in charge of the regular and special City Council meetings. Presiding officer and Chair are interchangeable terms. They both are sometimes used to refer to the Mayor of the City Council when the Mayor is conducting the meeting.

Prevailing Side-The affirmative if the motion passed and the negative if the motion failed. A person is said to have voted on the prevailing side if that member voted yes on a motion that passed or no on a motion that failed.

Primary Amendment-A proposed change to the *Main Motion*.

Privileged Motions-Motions that don't relate to the *Main Motion* or pending business but relate directly to the members and the organization. They are matters of such urgency that, without debate, they can interrupt the consideration of anything else. Motions in this classification include: *Adjourn*, and *Recess*

Pro Tem-Temporary or for the time being, as in president pro tem.

Putting the question-It involves the presiding officer placing the motion before the Council Members for a vote by stating the question to the City Council.

Qualified-The limiting of a motion or a vote in a specific manner. For example, if a *Main Motion*, an *Amendment*, and a motion to *Postpone Definitely* are all pending and a member moves the *Previous Question* on the motion to *Postpone Definitely* and the *Amendment*. In this example the *Previous Question* motion is qualified because it does not apply to all three pending motions, only two of them. It does not apply to the *Main Motion*.

Question-A proposal that the group take a specific action or stand. Motion and question are interchangeable terms.

Question of Privilege-An urgent request or motion relating to the privileges of the assembly or a member.

Quorum-Latin phrase meaning "of whom". The number of Council Members who must be present at a City Council meeting in order that business can be legally transacted. For a regular meeting, four Council Members and the Mayor constitute a quorum while five Council Members is needed at a special meeting to constitute a quorum.

Raise a Question of Privilege-To bring an urgent request or a *Main Motion* relating to the rights of either the assembly or an individual up for immediate consideration. It may interrupt business.

Receive a Report-To permit or cause a report to be presented; to hear a report.

Recess-A short interruption which does not close the City Council or committee meeting. After the recess, business resumes at exactly the point where it was interrupted.

Recognize a Member-The acknowledgement by the presiding officer that a Council Member has the right to address the City Council.

Recommendation-A proposal that the City Council take a specific action. It's usually made by a committee, a board, commission or an officer.

Recommit-A motion to *Refer* an issue or a motion back to a committee from the City Council.

Reconsider-This motion enables the majority of the assembly to bring back for further consideration a motion that has been voted on. Limitations: Must be made before any action is taken on the vote proposed to be Reconsidered, and in an ordinary meeting of an organization this motion can be made only on the same day the vote to be *Reconsidered* was taken.

Recount-To count the vote again.

Refer to a Committee or Commit-This motion sends the *Main Motion* to a smaller group (a committee) for further examination and refinement before the body votes on it. Be sure to be specific which committee, size of committee, the report back date, and so on.

Regular Meeting-A business meeting of the City Council that is held at regular monthly intervals. The meetings are held when prescribed in the state laws, the standing rules, or through a motion of the group, usually adopted at the beginning of the administrative year. Each regular and special meeting is a separate session.

Renewal of a Motion-A motion is considered renewed if it was made and disposed of without being adopted and then made again. The rules concerning renewal of a motion are extensive and are based upon the principle that an assembly should not have to deal with the same motion or substantially the same motion more than one time in a single session.

Report-A formal communication from a committee, board, or officer to the City Council. The report can be written or oral.

Reporting Member-The member of the committee or board that is presenting the committee or board report to the members. The chairman of a committee is usually the reporting member.

Request-Any petition by a member through the presiding officer to the City Council, which is growing out of the business of the City Council.

Request to be Excused from a Duty-If a member believes he cannot fulfill a duty required of him, either as a member or as an officer, he can move to Request to be Excused From a Duty. If the motion passes, he is *excused from the duty*.

Request to Read Papers-A call from a member to the assembly for permission to read from any paper or book. Reading from a paper or book is not allowed without permission from the assembly.

Resignation-A request, usually written, to relinquish an office, position, appointment, or membership.

Resolution-A formal form of a motion that usually includes reasons as “whereas” clauses and the action as “resolved” clause or “ordered” clause.

Resolved Clause-The last part of a formal resolution. This part is the portion that specifies the action or position to be taken. If a resolution directs an act to be done, then the “resolved” wording of the clause is replaced with “ordered”.

Robert’s Rules-A term used to refer to any of the manuals on parliamentary procedure written by Henry M. Robert or based on the manuals he wrote.

Roll call vote-A method of voting in which the voting Council Members’ names are called and the member states their vote: "The City Clerk-Treasurer will now call the roll." It places in the record how each Council Member voted. It is frequently required of public bodies, such as city councils or school boards.

Rules of order-Written sets of laws of parliamentary procedure by which an organization conducts its business.

Ruling-A decision made by the presiding officer. If members of the assembly disagree with the decision, they can Appeal the decision.

Script-Written directions of what is to be said, by whom, and when during the meeting. A script serves as a cheat sheet for the presiding officer or the member as they try to conduct or participate in a meeting. The amount of detail in the script varies with the person writing the script and the person using the script.

Second-An indication by a voting member, other than the person who made the motion, that he or she publicly agrees that the proposed motion should be considered. In seconding a motion, the member is only indicating agreement that the assembly should consider the motion, not necessarily agreement with the motion.

Secondary Motion-A motion that may be made while another motion is pending. It includes subsidiary motions, privileged motions, and incidental motions.

Seconder-The member who seconds the motion.

Select Committee-See special committee.

Sergeant-at-arms-A position in some organizations whose job it is to help preserve order at the meeting, following the direction of the presiding officer.

Session-A regular meeting of the City Council.

Silent-A term used to describe the absence of an issue in a document. For example, if there is nothing in the ordinance on an issue, one might say the ordinance is silent on _____ .

Silent Assent-A slang term that is interchangeable with general consent and unanimous consent, and is a method of avoiding the formality of a vote by getting agreement of everyone in the meeting.

Simple Majority-A majority - more than half of the whole of the Council Members of the City Council.

Sine Die-Literally means “without day.” To *Adjourn sine die* means it's the final adjournment of an assembly. The last meeting of the convention is said to *Adjourn sine die*. The word is pronounced: SIGN-ee DYE-ee.

Single Slate-A list of candidates for office or positions which has the name of only one candidate for each office or position.

Slate-A list of candidates for office. The report of a nominating committee is usually referred to as the slate of candidates.

Speaker-Usually refers to the person who has the floor.

Special Committee-A committee of the City Council that is formed to perform a particular function. After it gives its final report, it ceases to exist. Also referred to as temporary committee, select committee or ad hoc committee.

Special Meeting-A meeting called at a special time for a specific purpose. Notice of the time, place, and purpose of the meeting must be included in the information sent to all of the Council Members regarding the meeting - referred to as the call of the meeting. Only business that was specified in the call of the meeting can be transacted at the meeting. Special meetings are usually held for emergency purposes - things that were not, nor could be, planned for in advance, or for issues that cannot wait until the next scheduled regular meeting.

Special Orders-This category of the agenda has the effect of setting a certain time when a specified subject will be considered, and of giving it an absolute priority for that time.

Special Rules of Order-The rules contained in the parliamentary authority are called the rules of order. Sometimes organizations feel a need to have additional rules of order, called special rules of order, which differ from the parliamentary authority.

Staggered Terms-Terms of office of a board or committee arranged in such a way that only a percentage of the terms end at the same time.

Stand at Ease-A brief pause, without a Recess, that is called by the presiding officer, without objection.

Standing Committee-A committee appointed for a definitive time (frequently a year), usually listed in the bylaws, which performs ongoing functions.

Standing Rules-Rules adopted by an organization that are administrative in nature rather than procedural. Convention standing rules are rules adopted by the convention's delegates and are procedural in nature.

State Statutes-municipal organizations are governed by the state statutes of the state in which they are incorporated. These statutes are usually available on the Internet.

State the Question-This refers to the third step in the processing of a motion. During this step, the presiding officer restates the motion, thus, formally placing it before the body.

Straw Poll-A method of informally determining where the assembly stands on an issue. It is not allowed because it does not take an action and is therefore considered dilatory.

Sturgis-Another parliamentary authority whose original book *Sturgis Standard Code of Parliamentary Procedure* has been updated by the American Institute of Parliamentarians.

Subcommittee-A committee of a committee, usually formed for the purpose of study and investigation of certain matters, which reports its findings to the committee that formed it.

Subsidiary Motions-Motions that aid the assembly in treating or disposing of a *Main Motion*. They are in order only from the time the *Main Motion* has been stated by the chair until the chair begins to take a vote on that *Main Motion*. Motions in this classification include: Vote Immediately, Limit or Extend Time of Debate, Postpone Definitely, Commit or Refer, and Amend.

Substitute Amendment-An Amendment that proposes to strike out a paragraph or more and to insert another in its place.

Suspend the Rules-This motion is used when the assembly wants to do something that violates its own rules. This motion does not apply to the organization's bylaws; local, state, or national law; or fundamental principles of parliamentary law. An appropriate suspension of the rules would be a motion to change the agenda, or the prescribed meeting time. An inappropriate suspension of the rules would be to allow nonmembers the same voting rights as members.

Sustain-to support and uphold a ruling.

Sustain the Decision of the Chair-To support and uphold a ruling made by the chair in an *Appeal from the Decision of the Chair* motion. When the *Appeal* motion is put to a vote, the wording used is: “Those in favor of sustaining the decision of the chair”

Table-A shortcut term for the motion *Lay on the Table*.

Temporary Committee-See Special committee.

Term of Office-The duration of the period for which a person is elected or appointed to an office or position.

Tie Vote-An equal number of affirmative and negative votes. It is not required that tie votes be broken since, if a majority vote is needed, the motion fails because it lacks a majority vote. The Mayor, as the Chair and as allowed by state law, may elect to vote in case of a tie to pass a measure or decline to vote in order to allow the measure to fail.

Two-Thirds Vote-Having two-thirds of the City Council vote in favor of a motion. Two-thirds of the City Council needed to pass any motion requiring two-thirds is six votes in favor of the motion.

Unanimous-Without dissent; no votes were cast on the losing side.

Unanimous Consent-See general consent.

Unanimous Vote-A vote in which everyone present and voting, voted on the prevailing side. No one voted on the losing side of the question.

Undebatable-No debate is allowed. Certain motions are undebatable. In essence, Step 4 in the processing of a motion is skipped.

Unfinished Business-A portion of the agenda that includes motions that have been carried over from the previous meeting as a result of that meeting having adjourned without completing its order of business.

Unqualified-A motion or vote that does not have any limitations placed on it. For example, if the vote needed is a majority vote of the entire membership, that is a qualified vote, but if the vote needed is only a majority vote, that is an unqualified vote.

Vacancy-An office or position which is unfilled or unoccupied.

Vacate the Chair-To temporarily relinquish the Chair so that the presiding officer can participate in debate.

Viva Voce-A vote by voice all in favor answer "yes" at the same time and all opposed answer "no" at the same time after the yes vote.

Voice Vote-A method of voting in which the members express their vote vocally. "All those in favor, say Aye.[pause] All those opposed, say No." (If the chair is in doubt of the results of a voice vote, the chair should state "The chair is in doubt, and therefore a roll call vote will be taken." Then proceed with a roll call vote.)

Vote-A formal expression of will, opinion or choice by members of the City Council in regard to a matter submitted to it.

Vote by Acclamation-An election by unanimous consent.

Vote Immediately- The effect of this motion is to immediately stop debate on the primary motion and any amendments and to move immediately to a vote on the motion. No debate is allowed, and a two-thirds vote is needed to close debate. If successfully passed, the City Council will immediately vote on the motion.

With Power-A term used to describe a committee that is authorized to take action on the matter that is referred to it.

Withdraw of a Motion-A request by a Council Member to remove the motion from consideration. After the motion has been stated by the presiding officer, it belongs to the City Council and the City Council's permission (majority vote) is needed to *Withdraw* the motion.

Yea or Nay Vote-Yes or no vote that is used in roll call voting. This term is sometimes used interchangeably with roll call vote.

Yield-Gives way to. A pending motion yields to one of higher rank on the Precedence of Motions list.

Yielding the Floor-A speaker giving part of his or her speaking time to another speaker. While this practice is allowed in some legislative bodies, it is not allowed in deliberative assemblies, unless specifically authorized in the rules.

Appendix L

State Laws Affecting City Council Meeting Procedures

§ 14-43-501. Organization of City Council

- (a)(1) The members of a governing body elected for each city or town shall annually in January assemble and organize the governing body.
- (2)(A) A majority of the whole number of members of a governing body constitutes a quorum for the transaction of business.
- (B)(i) The governing body shall judge the election returns and the qualifications of its own members.
- (ii) These judgments of the governing body are not subject to veto by the mayor.
- (C)(i) The governing body shall determine the rules of its proceedings and keep a journal of its proceedings, and the journal shall be open to the inspection and examination of any citizen.
- (ii) The governing body may also compel the attendance of absent members in such a manner and under such penalties as it prescribes.
- (iii) The governing body may consider the passage of rules on the following subjects, including without limitation:
- (a) The agenda for meetings;
 - (b) The filing of resolutions and ordinances; and
 - (c) Citizen commentary.
- (b)(1)(A) In a mayor-council form of government, the mayor shall be ex officio president of the city council and shall preside at its meetings.
- (B) The mayor shall have a vote to establish a quorum of the city council at any regular or special meeting of the city council and when his or her vote is needed to pass any ordinance, bylaw, resolution, order, or motion.
- (2) In the absence of the mayor, the city council shall elect a president pro tempore to preside over council meetings.
- (3) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following individuals may perform all functions of a mayor during the disability or absence of the mayor:
- (A) The city clerk;
 - (B) Another elected official of the city if designated by the mayor; or
 - (C) An unelected employee or resident of the city if designated by the mayor and approved by the city council.
- (c) As used in this section, "governing body" means the city council in a mayor-council form of government, the board of directors in a city manager form of government, and the board of directors in a city administrator form of government.

§ 14-43-504. Mayor

- (a) The mayor of the city shall be its chief executive officer and conservator of its peace. It shall be his or her special duty to cause the ordinances and regulations of the city to be faithfully and constantly obeyed.
- (b) The mayor shall:
- (1) Supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against them, and cause all their violations of duty or other neglect to be properly punished or reported to the proper tribunal for correction;
 - (2) Have and exercise the power conferred on sheriffs, within the city limits, to suppress disorder and keep the peace; and
 - (3) Perform such other duties compatible with the nature of his or her office as the city council may from time to time require.
- (c) Repealed.
- (d) The mayor shall report, within the first ninety (90) days of each year and at such other times as he or she shall deem expedient, to the council the municipal affairs of the city and recommend such measures as may seem advisable.
- (e) The mayor of any city of the first class shall, in addition to the powers and duties already pertaining to that office, be clothed with, and exercise and perform, the following:
- (1) A mayor may veto, within five (5) days, Sundays excepted, after the action of the city council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest.
 - (2)(A) In case of a veto, before the next regular meeting of the council, the mayor shall file in the office of the City Clerk-Treasurer, to be laid before that meeting, a written statement of his or her reasons for so doing.
 - (B) An ordinance, an order, or a resolution or part thereof, vetoed by the mayor is invalid unless, after the written statement is laid before it, the council, by a vote of two-thirds (2/3) of all the Council Members elected thereto, passes it over the veto.
 - (3) The mayor does not have the power of veto in circumstances prescribed under § 14-43-501(a) or § 14-43-411(a).

§ 14-43-506. Clerk

(a) The City Clerk-Treasurer in cities of the first class shall have the custody of all the laws and ordinances of the city and shall keep a regular and correct journal of the proceedings of the city council.

(b)(1) The City Clerk-Treasurer, City Clerk-Treasurer-treasurer, or city treasurer, as the case may be, shall be required to submit quarterly a full report and a detailed statement of the financial condition of the city. This report shall show receipts, disbursements, and balance on hand, together with all liabilities of the city.

(2) The report shall be submitted to the council in open session.

§ 14-55-205. Recordation and authentication

All bylaws or ordinances after their passage shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer of the governing body and the clerk or recorder.

§ 14-55-201. Limitation to one subject

No bylaw or ordinance shall contain more than one (1) subject, which shall be clearly expressed in its title.

§ 14-55-202. Reading rule

All bylaws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days unless two-thirds (2/3) of the members composing the municipal council shall dispense with the rule.

§ 14-55-203. Voting requirements for passage -- Effective dates

(a) On the passage of every bylaw, ordinance, resolution, or order to enter into a contract by the council of any municipal corporation, the yeas and nays shall be called and recorded.

(b) To pass any bylaw, ordinance, resolution, or order, a concurrence of a majority of a whole number of members elected to the council shall be required.

(c)(1)(A) The effective dates for ordinances of a general or permanent nature and other local measures of a general or permanent nature of cities of the first class, cities of the second class, and incorporated towns shall be upon publication or posting as is otherwise required by law, but not before ninety-one (91) days after passage by the governing body of the city or town.

(B) In the event that the governing body of the city or town has by ordinance fixed the deadline for filing referendum petitions upon ordinances or other local measures at not less than thirty (30) days nor more than ninety (90) days after passage of an ordinance or measure, then the effective date shall be the day next following the deadline fixed in the ordinance.

(C) An ordinance containing an emergency clause shall go into effect immediately upon passage or at the time specified by the emergency clause, regardless of publication or posting, but an emergency clause shall not be effective to impose any fine, penalty, forfeiture, or deprivation of liberty or property until after the ordinance has been published or posted as is otherwise required by law.

(2) The effective date of an ordinance that is not of a general or permanent nature of a city of the first class, city of the second class, or incorporated town is the date of passage of the ordinance unless a later effective date is provided in the ordinance.

§ 14-55-206. Notice by publication

(a)(1)(A) All bylaws or ordinances of a general or permanent nature and all those imposing any fine, penalty, or forfeiture shall be published in some newspaper published in the municipality.

(B) In municipalities in which no newspaper is published, written or printed notice posted in five (5) of the most public places designated by the governing body in an ordinance or minutes of the governing body shall be deemed a sufficient publication of any law or ordinance.

(2) It shall be deemed a sufficient defense to any suit or prosecution of such fine, penalty, or forfeiture to show that no notice was given as provided herein.

(b) As to ordinances establishing rules and regulations for zoning, construction of buildings, the installation of plumbing, the installation of electric wiring, or other similar work, where such rules and regulations have been printed as a code in book form, the code or provisions thereof may be published by the municipality by reference to title of the code without further publication or posting thereof. However, no fewer than three (3) copies of the code shall be filed for use and examination by the public in the office of the clerk or recorder of the municipality after the adoption thereof if there is no electronic form of the code available for examination by the public.

§ 25-19-106. Open public meetings--Exceptions

(a) Except as otherwise specifically provided by law, all meetings, formal or informal, special or regular, of the governing bodies of all municipalities, counties, townships, and school districts and all boards, bureaus, commissions, or organizations of the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds, shall be public meetings.

(b)(1) The time and place of each regular meeting shall be furnished to anyone who requests the information.

(2) In the event of emergency or special meetings, the person calling the meeting shall notify the representatives of the newspapers, radio stations, and television stations, if any, located in the county in which the meeting is to be held and any news media located elsewhere that cover regular meetings of the governing body and that have requested to be so notified of emergency or special meetings of the time, place, and date of the meeting. Notification shall be made at least two (2) hours before the meeting takes place in order that the public shall have representatives at the meeting.

(c)(1) Executive sessions will be permitted only for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee. The specific purpose of the executive session shall be announced in public before going into executive session.

(2)(A) Only the person holding the top administrative position in the public agency, department, or office involved, the immediate supervisor of the employee involved, and the employee may be present at the executive session when so requested by the governing body, board, commission, or other public body holding the executive session.

(B) Any person being interviewed for the top administrative position in the public agency, department, or office involved may be present at the executive session when so requested by the governing board, commission, or other public body holding the executive session.

(3) Executive sessions must never be called for the purpose of defeating the reason or the spirit of this chapter.

(4) No resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in executive session will be legal unless, following the executive session, the public body reconvenes in public session and presents and votes on the resolution, ordinance, rule, contract, regulation, or motion.

(5)(A) Boards and commissions of this state may meet in executive session for purposes of preparing examination materials and answers to examination materials that are administered to applicants for licensure from state agencies.

(B) Boards and commissions are excluded from this chapter for the administering of examinations to applicants for licensure.

(6)(A) Subject to the provisions of subdivision (c)(4) of this section, any public agency may meet in executive session for the purpose of considering, evaluating, or discussing matters pertaining to public water system security as described in § 25-19-105(b)(18).

(B) This subdivision (c)(6) expires on July 1, 2013.

Appendix M

Selected Attorney General Opinions

Office of the Attorney General
State of Arkansas
Opinion No. 81-165
*1 August 30, 1981

Honorable David S. Clinger
Prosecuting Attorney
Benton County Courthouse
P. O. Box 568
Bentonville, Arkansas 72712

Dear Mr. Clinger:

This is in response to your opinion request on August 5, 1981. Your question was: When an ordinance is amended on the second reading does it have to go back for a first reading before it can be voted on?

Ark. Stat. Ann. § 19-2402 states: 'All by-laws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days, unless two-thirds (2/3) of the members composing the council shall dispense with the rule.'

When a proposed ordinance is amended before it is passed into law, it becomes, for all practical purposes, a new proposed ordinance. The new ordinance must then go through the process of being read three (3) times, unless this is waived by a two-thirds (2/3) vote of the councilmen. Failing to adhere to the statutory requirement could result in the ordinance being declared invalid. The better procedure would be either to read the ordinance three times or vote to waive the readings.

The foregoing opinion, which I hereby approve, was prepared by Chief Deputy Attorney General Rodney Parham.

Yours truly,
Steve Clark

Ark. Op. Atty. Gen. No. 81-165, 1981 WL 48454 (Ark.A.G.)

Opinion No. 95-306

October 31, 1995

The Honorable Bobby L. Hogue
State Representative
P. O. Box 97
Jonesboro, AR 72403-0097

Dear Representative Hogue:

This is in response to your request for an opinion on the following question:

To pass a motion before the city council, is a simple majority of the Council Members present necessary to pass the motion, or does it require a majority of the whole elected body?

A conclusive answer to this question would require reference to the particular motion at hand, as certain types of motions require more than a majority vote. See, e.g., A.C.A. § 14-55-202 (1987) (requiring a two-thirds vote to suspend the rule regarding reading of bylaws and ordinances on three different days); see also A.C.A. § 14-55-203 (1987) (requiring "a majority of a whole number of members elected to the council" to pass any "bylaw, ordinance, resolution, or order....") The form of government of the city in question should also be considered,² as well as any local rules of procedure. See A.C.A. § 14-43-501(a)(2)(C) (1987) (authorizing cities of the first class to "determine the rules of their proceedings....")

As a general matter, however, under the common law rule, a majority of a quorum is empowered to act for the body. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982).³ It seems clear, therefore, that a majority of the whole elected body is ordinarily not required to pass a motion. It should be further noted in this regard that under general parliamentary law, a majority of those members voting is sufficient to approve a motion where a quorum is present. H.M. Robert, Robert's Rules of Order Art. VI, § 38 (1973). This comports with the general common law rule. See *FTC v. Flotil Products, Inc.*, 389 U.S. 179 (1967), cited in *Mad Butcher, supra*, 4 Ark. App. at 130. Thus, when not otherwise stated by rule or statute, the number of members present and voting is ordinarily the basis for calculating the majority vote, i.e., abstentions are excluded. Robert's, supra.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Elisabeth A. Walker.

Sincerely,
WINSTON BRYANT
Attorney General
WB:EAW/cyh

² See A.C.A. § 14-47-123(a)(2) (1987) (providing in the city manager form of government that "the concurring vote of a majority of those attending a meeting, provided a quorum is present, shall represent the action of the board") and § 14-48-120(a)(2) (1987) (stating with regard to the city administrator form of government that "[e]xcept where otherwise provided by law, an affirmative vote of four (4) or more members shall represent the action of the board.")

³ As to what constitutes a quorum, see generally A.C.A. § 14-53-501(a)(2)(A) (1987) ("[a] majority of the whole number of Council Members....") See also A.C.A. §§ 14-47-123(a)(1) (1987) and 14-48-120(a)(1) (1987) ("[a] majority of the elected membership of the board of directors....")

Opinion No. 96-155

May 15, 1996

The Honorable Phil Wyrick

State Representative

11001 Alexander Road

Mabelvale, Arkansas 72103-1905

Dear Representative Wyrick:

This is in response to your request for an opinion on the following question:

Under an incorporated town, does the mayor have a vote to pass an ordinance under the emergency clause when all councilmen are present, three votes for two votes against? It should take 2/3 vote of the city councilmen to pass the ordinance.

It is my opinion that the answer to this question is “no.”

The requirement of a two-thirds vote to pass an emergency clause emanates not from any state statute, but from a provision of Amendment 7 to the Arkansas Constitution, governing the initiation and referendum of measures by the people. The relevant portion of that Amendment provides as follows:

“Emergency- If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective without delay, such necessity shall be stated in one section, and if upon a ye and nay vote two-thirds of all the members elected to each house, or two-thirds of all the members elected to city or town councils; shall vote upon separate roll call in favor of the measure going into immediate operation, such emergency measure shall become effective without delay....[Emphasis added.]”

This provision requires a two-thirds vote of “all the members elected to city or town councils.” The mayor of an incorporated town, of course, is not, strictly speaking, “elected to [the] ... town council.” He is elected as mayor, and serves, by virtue of his position of mayor under A.C.A. § 14-45-105(a), as ex-officio president of the council.

This same statute governing the mayor’s powers, however, also states that the mayor “shall have a vote when the mayor’s vote is needed to pass any ordinance, bylaw, resolution, order, or motion.” A.C.A. § 14-45-105(a). It has been held under identical language in a similar statute applying to mayors of cities of the first class and a provision of Amendment 7 requiring a two-thirds vote of “all members elected to ...the city council” that the mayor was not an “elected” member of the council, and his vote could not be counted in the two-thirds vote necessary to repeal a measure initiated by the voters of the municipality under Amendment 7. *Thompson, Mayor v. Younts*, 282 Ark. 524, 669 S.W.2d 471 (1984). In *Younts*, the city council passed an ordinance which in part repealed an ordinance initiated by the voters of the city. This action would, under Amendment 7, require a vote of “two-thirds of all members elected to... the city council....” In *Younts* the ordinance was passed by five of the nine elected Council Members with the mayor’s vote making a total of six votes to pass. The court in *Younts* held that this vote was insufficient because, under the relevant provision of Amendment 7, the mayor was not an “elected” member of the council, even though a statute stated that the mayor had a vote when his vote was needed to pass any ordinance, by-law, resolution, order or motion.

Although the *Younts* decision involved a different provision of Amendment 7, (the one requiring a two-thirds vote to overturn initiated action, rather than the one requiring a two-thirds vote to pass an emergency clause), and involved a city of the first class (rather than an incorporated town) the provisions discussed in *Younts* are, for all practical purposes, identical to the provisions which are relevant to your question. In my opinion, therefore, the *Younts* decision is controlling of the question, and thus, the mayor’s vote may not be counted in determining whether there is a sufficient two-thirds majority to pass an emergency clause for purposes of Amendment 7.

This conclusion is in no way inconsistent with the more recent decision in *Gibson v. City of Trumann*, 311 Ark. 561, 8451 S.W.2d 515 (1993). Cf. also, Op. Att’y Gen. 95-229. In that decision, the Arkansas Supreme Court held that in a first class city, the mayor’s vote could be counted to break a tie vote on an appropriation ordinance, which by statute was required to be passed by the “concurrence of the majority of the Council Members of any municipal corporation.” See A.C.A. § 14-55-204 (1987). The court held that the legislature, in passing the statute which gave the mayor a vote when the mayor’s vote was needed to pass “any” ordinance, by-law, resolution, order or motion, had impliedly repealed or amended the “Council Members” requirement of the statute applying to appropriation ordinances to allow the mayor to vote on such ordinances when his vote was needed. The court in *Gibson* expressly distinguished the *Younts* decision, stating:

The appellant contends that the foregoing construction of the 1981 act is inconsistent with our case of *Thompson v Younts*, [citation omitted]. In that case we were not deciding whether a 1981 statute could amend a section of an 1875 statute. Rather, we were construing the language of Amendment 7 to the Constitution of Arkansas.... In *Younts* we construed the amendment to mean just what it says, a vote of two-thirds of all the members elected to the city council is necessary to amend a measure approved by a vote of the people. In this case we are not construing that amendment or that language, but rather whether the 1981 statute was intended to amend a section of the 1875 statute and to repeal by implication another part. [11] 311 Ark. at 563.

It is therefore my opinion that the *Younts* decision is controlling of your question, and the mayor of an incorporated town does not have a vote for purposes of constituting the two-thirds majority required by Amendment 7 to pass an emergency clause to an ordinance.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General Elana C. Wills.

Sincerely,
WINSTON BRYANT
Attorney General
WB:ECW/cyh

[1]The court in *Younts* expressly held that a mayor was not a member “elected to the council” despite the fact that he served as ex-officio member by virtue of his status as mayor. In *Gibson*, however, for some reason, the parties agreed that the language of A.C.A. § 14-55-203, requiring a “majority of the whole number of members elected to the council” to pass any ordinance, included the mayor, as ex-officio member of the council. The case went on to focus on the “Council Members” requirement of the appropriation statute, and the court did not have to address the issue of whether the mayor was “elected to the council.” This fact, and the *Gibson*’s court express distinguishing of the *Younts* decision, lead me to conclude that *Younts* is still controlling on this point, at least with respect to the facts of your question.

Opinion No. 96-328

December 13, 1996

The Honorable Roger L. Rorie
State Representative
P.O. Box 136
Fox, Arkansas 72051-0136

Dear Representative Rorie:

This is in response to your request for an opinion on fourteen questions regarding issues related to Fairfield Bay. Initially, it is my understanding that Fairfield Bay is a city of the second class operating under the mayor/council form of government. It should also be noted that the answers to certain of your questions will turn upon a determination of all of the attendant facts, as presented and established by all of the interested parties. A factual determination of this nature can only be conducted by a court. Your questions are restated and addressed below in the order posed.

***Question 1** -- In the absence of an ordinance prescribing the manner of setting the agenda for a council meeting, may ordinances and/or resolutions be introduced without first submitting them to the mayor or city attorney for advance review and approval?*

In reviewing the sections of the Arkansas Code Annotated that govern ordinances and city council meetings, I have not found any statute that requires that an ordinance or resolution be submitted to either the mayor or the city attorney for advance review or approval. Chapter 55 of Title 14 of the Arkansas Code Annotated governs "Ordinances of Municipalities." That chapter does contain a provision which provides: "[a]ll bylaws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days unless two-thirds (2/3) of the members composing the municipal council shall dispense with the rule." A.C.A. § 14-55-202 (1987). This provision, however, is simply a general reading requirement. Also, it is not applicable to either an ordinance that is not of a general or permanent nature or a resolution. *Adams v. Sims*, 238 Ark. 696, 385 S.W.2d 13 (1964). Although I have not found any statutory requirement regarding the prior review of an ordinance or resolution, this office has previously opined that the city's governing body may adopt its own regulations and rules of procedure when they are not prescribed by statute or charter provision. Op. Att'y Gen. No. 95-152; 62 C.J.S. *Municipal Corporations* § 400(a) (1949). "A municipal council has inherent power to make rules of procedure for its own government, provided such rules are not inconsistent with the constitution, its municipal charter, or any statute of the state." 56 Am.Jur.2d *Municipal Corporations, Etc.* § 156 (1971). Consequently, in the absence of an ordinance establishing rules of procedure or prescribing the manner of setting the agenda for a council meeting, it is my opinion that an ordinance or resolution need not be submitted to the mayor or city attorney for advance review and approval.

Opinion No. 97-175

July 9, 1997

The Honorable John E. Miller
State Representative
P.O. Box 420
Melbourne, Arkansas 72556-0420

Dear Representative Miller:

This official Attorney General opinion is issued in response to your question regarding the reading requirement for the passage of municipal ordinances.

You have asked:

If an ordinance has been read for the third time and failed, can it be read again for passage?

It is my opinion that this question is one that will be governed by each municipality.

Municipalities are empowered to enact ordinances. See A.C.A. §14-55-101. They are further authorized to “exercise all powers conferred by the state constitution and the General Assembly generally upon municipalities not contrary” to state law. In my opinion, this authority allows cities to formulate their own procedures for handling situations that are not addressed by state law, as long as they do so in a manner that is not contrary to state law.

The provisions of A.C.A. §14-55-202, which set forth the reading requirement for the passage of ordinances, do not address the situation that you have described.⁴ I therefore conclude that these provisions establish a general requirement, and that specific situations that do not fall within their scope can be handled as each municipality chooses, provided the municipality’s chosen means of handling the situation is not contrary to the statute’s general reading requirements.

It is therefore my opinion that if an ordinance is read three times, a vote is taken, and the ordinance does not pass, the ordinance may be read one additional time before another vote is taken. This approach is not contrary to the general reading requirement that is established by A.C.A. §14-55-202, because the ordinance will have been read, in actuality, at least three times, as required by the statute.

It should be noted that the city council can, by a two-thirds majority vote, dispense with the reading requirement altogether. See A.C.A. §14-55-202.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Suzanne Antley.

Sincerely,
WINSTON BRYANT
Attorney General
WB:SBA/cyh

⁴ A.C.A. § 14-55-202 provides:

All bylaws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days unless two-thirds (2/3) of the members composing the municipal council shall dispense with the rule.

It should be noted that this requirement does not apply to certain specified types of ordinances, such as appropriation ordinances and ordinances that are not of a general or permanent nature. See Ops. Att’y Gen. No. 92-027; 96-328.

Opinion No. 98-282

December 29, 1998

The Honorable Jerry Allison
State Representative
26 CR 744
Jonesboro, Arkansas 72401-9563

Dear Representative Allison:

You have requested an Attorney General on the following questions:

- (1) In a city of the first class with a population of more than 50,000, which state statute has precedence with regard to filling the office of city treasurer, A.C.A. § 14-43-303 or A.C.A. § 14-43-405?
- (2) If A.C.A. § 14-43-405 has precedence, can the appointment of a city treasurer be legislated by the city council by ordinance, after a candidate's petition for the local election process has already started?
- (3) Is it the intent of A.C.A. § 14-43-405 to allow a city council to appoint as city treasurer a person who is already serving as the city's finance director and who is hired by and accountable to the mayor?
- (4) If a city council member leaves a meeting of the council, and a vote is held on a proposal to allow appointment of the city treasurer while he is absent, can he be called to return to the meeting for the purpose of holding a second vote on the proposal, if no amendment to the proposal was suggested by the side who prevailed in the first vote?
- (5) Would this council member's leaving and then returning to vote violate the state constitution or any state statute?
- (6) If the ordinance allowing appointment of the city treasurer is passed under the above-described circumstances (involving the council member leaving and returning to vote), is the ordinance legal?
- (7) Should the vote on this ordinance have been postponed until the next scheduled council meeting?
- (8) After a 7 "for" to 3 "against" vote to suspend the rules and place on second reading is held, and the second reading is performed, and then a 7 "for" to 3 "against" vote to suspend the rules and place on the third reading is taken and the City Clerk-Treasurer notices the error (i.e., the lack of a 2/3 majority), and the council member who had left returns to the meeting and votes for the suspension of the rules to place on second reading, making the vote 8 "for" and 3 "against," and the second reading was never performed again, but the third reading was performed, is this a legal ordinance?
- (9) If a mayor or city council calls a special meeting and a council member is called by telephone, but is not present to answer the call nor notified by any other means of the special meeting, is the special meeting a legal meeting?
- (10) Is any legislation that is passed during this special meeting legal?

RESPONSE

Question 1 -- *In a city of the first class with a population of more than 50,000, which state statute has precedence with regard to filling the office of city treasurer, A.C.A. § 14-43-303 or A.C.A. § 14-43-405?*

It is my opinion that A.C.A. § 14-43-405 takes precedence over A.C.A. § 14-43-303. I base this conclusion on the fact that A.C.A. § 14-43-405 is more specific than A.C.A. § 14-43-303.

For purposes of clarity, I will set forth the pertinent contents of both statutes.

A.C.A. § 14-43-303 states in pertinent part:

(3)(A) At the general election in the year 1962, and every four (4) years thereafter, the city shall elect:

* * *

(ii) One (1) city treasurer. . . . A.C.A. § 14-43-303(3)(A)(ii).

A.C.A. § 14-43-405 states:

All cities of the first class having the mayor-council form of government may provide, by ordinance, for the election or appointment of their city treasurer. The city council may, by ordinance or resolution, designate the City Clerk-Treasurer as clerk-treasurer, allowing one (1) person to assume the duties of both clerk and treasurer. A.C.A. § 14-43-405.

The Arkansas Supreme Court has held that where two statutes address the same subject, one of which is more specific than the other, the more specific will govern. See, e.g., Sunbelt Courier v. McCartney, 31 Ark. App. 8, 786 S.W.2d 121 (1990), aff'd 303 Ark. 522, 798 S.W.2d 92 (1990); Thomas v. Easley, 277 Ark. 222, 640 S.W.2d 797 (1982).

A.C.A. § 14-43-405 is more specific than A.C.A. § 14-43-303. The latter statute, A.C.A. § 14-43-303, addresses the election of municipal officers generally. It addresses the full range of municipal offices in groups, and sets forth the frequency with which they are to be elected and the lengths of their terms. In contrast, A.C.A. § 14-43-405 addresses only the office of treasurer (and clerk-treasurer). This statute was enacted after A.C.A. § 14-43-303, and appears to have been intended to allow cities an option for filling the office of city treasurer other than by election, as provided in A.C.A. § 14-43-303.

Because A.C.A. § 14-43-405 is clearly more specific than A.C.A. § 14-43-303, I must conclude that A.C.A. § 14-43-405 takes precedence in determining the issue of the manner in which cities may fill the office of city treasurer. Cities of the first class having a mayor-council form of government may either elect or appoint their city treasurer.

Question 2 -- *If A.C.A. § 14-43-405 has precedence, can the appointment of a city treasurer be legislated by the city council by ordinance, after a candidate's petition for the local election process has already started?*

It is my opinion that a city can enact an ordinance providing for the appointment of the city treasurer, even after a potential candidate for that office has begun the petition process.

The provisions of A.C.A. § 14-43-405 do not state limitations on its applicability. Moreover, I find no other legal limitations on its applicability. Since the passage of A.C.A. § 14-43-405 in 1965, there has not been any "vested" right to run for the office of city treasurer. That statute empowered city councils to change the manner of filling the office of city treasurer to an appointment method at any time. By enacting such an ordinance, the city council is doing what it was empowered by state law to do, and in doing so, the city council does not disturb any vested rights.

I therefore conclude that the city council can enact such an ordinance, even after a potential candidate for the office of city treasurer has begun the petition process. It should be noted of course that the process of initiative petition is always available to an electorate who is dissatisfied with legislative action of the city council. See Ark. Const., am. 7.

Question 3 -- *Is it the intent of A.C.A. § 14-43-405 to allow a city council to appoint as city treasurer a person who is already serving as the city's finance director and who is hired by and accountable to the mayor?*

A.C.A. § 14-43-405 does not address the question of who may be appointed to the office of city treasurer pursuant to its provisions.

It is my opinion that no legal principle would prohibit the appointment of the city's finance director to the position of city treasurer. The situation does not give rise to any of the legal prohibitions against dual office holding, or any other legal concerns.

Even though, as you have pointed out, such an appointment would create a situation in which the person in charge of the city's finances is ultimately under the power of the mayor (and that therefore, the mayor would have undue control over the city's finances), I must note that even though this individual may be under the power of the mayor as finance director, he would be independent from the mayor as treasurer, because (as treasurer) he

would, by law, be accountable to the city council. See A.C.A. § 14-43-507. The city council, by law, has ultimate control over the city's finances. A.C.A. § 14-43-502.

Question 4 -- *If a city council member leaves a meeting of the council, and a vote is held on a proposal to allow appointment of the city treasurer while he is absent, can he be called to return to the meeting for the purpose of holding a second vote on the proposal, if no amendment to the proposal was suggested by the side who prevailed in the first vote?*

I must note initially that you have asked a question that is very fact-intensive. The Attorney General cannot determine disputed questions of fact or apply principles of law to a set of facts that may be disputed. For this reason, I cannot opine definitely as to any outcome that should have been obtained in that situation. Nevertheless, I will set forth the law that governs this question generally, which may be helpful to you in assessing the situation.

First, you indicate that the city in question does not have procedures addressing this question, and that eight votes constitute the two-thirds majority that is required to suspend the three readings rule.

I have previously opined that in the absence of local rules addressing procedural questions such as this one, general parliamentary law prevails. See Op. Att'y Gen. No. 95-152, citing *62 C.J.S. Municipal Corporations §400(a)* (1949). See also A.C.A. § 14-43-501(a)(2)(C) (1987) (authorizing cities of the first class to "determine the rules of their proceedings. . .") *62 C.J.S., supra*.

If you are correct that the city in question does not have local rules addressing this matter, general parliamentary law must be consulted. Under general parliamentary law, a second vote on a proposal that failed on the first vote may be taken at the same meeting if the rights of third parties have not intervened and if vested rights are not impaired. *62 C.J.S. Municipal Corporations § 407* (1949). See also *Robert's Rules of Order 268* (7th ed. 1970). A motion to reconsider a failed proposal can only be made, however, by a member who voted with the prevailing side. *Robert's Rules of Order, supra*, at 265. In other words, if the vote was "no" on a motion to adopt a resolution or ordinance, a reconsideration of the resolution or ordinance can be initiated only by a person who voted "no."

If a proposed ordinance fails on the first vote because of the lack of the required two-thirds majority in favor of it, the prevailing side was the side that voted against it. Under the principles set forth above, a reconsideration of that proposed ordinance can only be proposed by a person who had voted against the ordinance on the previous vote, and a second vote should not be held absent a proper proposal for reconsideration.

I reiterate that because I cannot make determinations of fact or apply the law to statements of fact that may be disputed, I cannot opine conclusively as to how these principles of law would apply to the fact situation about which you are concerned.

Question 5 -- *Would this council member's leaving and then returning to vote violate the state constitution or any state statute?*

I am aware of no statutory or constitutional provision that would prohibit a council member from leaving a council meeting and then returning to vote on a properly proposed measure.

Question 6 -- *If the ordinance allowing appointment of the city treasurer is passed under the above-described circumstances (involving the council member leaving and returning to vote), is the ordinance legal?*

Because the legality of the ordinance turns on factual events that happened at a council meeting, and because I am not authorized to make determinations of fact, or to apply principles of law to a set of facts that may be disputed, I cannot opine definitely in response to this question. See Response to Question 4 for a discussion of the legal principles upon which the legality of any particular ordinance must be determined.

Question 7 -- *Should the vote on this ordinance have been postponed until the next scheduled council meeting?*

The ultimate answer to this question, again, will turn on factual matters that I cannot determine. Under the principles set forth in response to Question 4, however, I can state as a general matter that if it can be factually determined that a reconsideration of an ordinance is not properly proposed, the second vote should be postponed. Again, however, I cannot draw any conclusions as to whether this is the case in a situation as to which I am not certain of the facts.

Question 8 -- *After a 7 "for" to 3 "against" vote to suspend the rules and place on second reading is held, and the second reading is performed, and then a 7 "for" to 3 "against" vote to suspend the rules and place on the third reading is taken and the City Clerk-Treasurer notices the error (i.e., the lack of a 2/3 majority), and the council member who had left returns to the meeting and votes for the suspension of the rules to place on second reading, making the vote 8 "for" and 3 "against," and the second reading was never performed again, but the third reading was performed, is this a legal ordinance?*

For the reasons stated in response to the previous questions, I cannot draw any conclusions as to the legality of a particular ordinance under facts that have not been definitively determined.

I should note that if a reconsideration is properly proposed, and a second vote to suspend the rule is taken, with a two-thirds majority voting for suspension of the rule, no second or third reading of the ordinance is necessary. When the rule has been properly suspended under A.C.A. § 14-55-202, an ordinance need not be read again. *Vaughan v. Searcy*, 199 Ark. 585, 135 S.W.2d 318 (1940).

Question 9 -- *If a mayor or city council calls a special meeting and a council member is called by telephone, but is not present to answer the call nor notified by any other means of the special meeting, is the special meeting a legal meeting?*

It is my opinion that the answer to this question will be governed by the city council's local rules concerning the notice that is required for special meetings.

City councils are required by state law to formulate rules for their own procedures, A.C.A. §14-43-501, including the procedure for providing notice of special meetings. A.C.A. §14-43-502. Therefore, the local rules must be consulted in order to answer this question. In addition, the question of whether the local rules have been adequately complied with is a question of fact that I cannot determine.

I will note, however, that an appropriate guideline in considering this question would be the fact that members of the public would be entitled to reasonable notice of special meetings of the city council, under the Freedom of Information Act (FOIA) [A.C.A. § 25-19-101 *et seq.*]. I have opined that the notice that is required under the FOIA must suffice to allow the public an opportunity to have representatives present at the meeting. See Op. Att'y Gen. No. 96-074. It would certainly follow that members of the city council would be entitled to the same degree of notice.

Question 10 -- *Is any legislation that is passed during this special meeting legal?*

See responses to Questions 4 through 8.

Assistant Attorney General Suzanne Antley prepared the foregoing opinion, which I hereby approve.

Sincerely,
WINSTON BRYANT
Attorney General
WB:SBA/cyh

Opinion No. 2000-080
April 14, 2000

The Honorable Bill Walters
State Senator
P.O. Box 280
Greenwood, AR 72936-0280

Dear Senator Walters:

You have requested an Attorney General opinion concerning the mayor's ability to vote on matters that come before the city council in a city of the first class.

You have asked:

Can a mayor in a city of the first class vote in cases other than a tie?

Response

It is my opinion that as the law is currently structured, the mayor in a city of the first class does have the authority to vote in cases other than a tie, but only when his vote is needed to pass any ordinance, resolution, order, or motion.

My conclusion regarding this matter is based upon the language of A.C.A. §14-43-501, and that statute's history, as well as upon certain dicta of the Arkansas Supreme Court.

A.C.A. §14-43-501 states in pertinent part:

(b)(1)(A) The mayor shall be ex officio president of the council and shall preside at its meetings.

(B) The mayor shall have a vote when his vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

A.C.A. §14-43-501(b).

This statute was placed in its current form by Act 345 of 1981, which amended the previous form of the statute. In its previous form, the statute stated:

The mayor shall be ex-officio president of the Council and shall preside at its meetings during the term for which he shall have been elected, and in case of a tie he shall have the casting vote.

Acts 1875, No. 1, § 51.

The 1981 amendment specifically removed the language limiting the mayor's voting power to situations involving ties, and replaced it with the language "the mayor shall have a vote when his vote is needed[.]"

This change in the statute appears to reflect an explicit legislative intent to broaden the power of the mayor to vote, so as to include situations other than those in which a tie has occurred.

In *Gibson v. City Of Trumann*, 311 Ark. 561, 845 S.W.2d 515 (1993), the Arkansas Supreme Court expressed a recognition of such an intent. In recounting the history of the statutes relating to the mayor's power to vote, the court stated:

In 1981, the General Assembly passed an act which provides for a mayor's vote at times other than a tie. . . . Under the 1875 act the mayor was limited to voting "in case of a tie." The 1981 act, codified as Ark. Code Ann. 14-43-501 (b)(1)(B) (1987), expanded the occasions on which the mayor can vote to "when the Mayor's vote is needed" to pass "any" type of ordinance. . . . By giving the words of the 1981 act their usual and ordinary meaning, it becomes obvious that the General Assembly intended for the 1981 act, Ark. Code Ann. 14-43-501 (b)(1)(B) (1987), to amend section 51 of Act 1 of 1875 to allow the mayor to vote whenever his vote is needed to pass any type of ordinance. . . . The words "when the Mayor's vote is needed" are not limited and would apply any time the mayor's vote is needed[.]

Gibson, 311 Ark. at 562-63.

It should be noted that the *Gibson* case did not involve the central issue you have raised. Rather, the issue there was whether the mayor could vote to break a tie vote on an appropriation ordinance, which is governed by A.C.A. § 14-55-204. Nevertheless, *Gibson* is the only case in which the court has interpreted the statutory language about which you have inquired. Moreover, *Gibson* was decided in 1993. The General Assembly has met several times since that decision and has not responded to that interpretation.

I note that it could be argued that this interpretation of A.C.A. §14-43-501 causes a conflict with A.C.A. §14-55-203, which states:

(b) To pass any bylaw, ordinance, resolution, or order, a concurrence of a majority of a whole number of members elected to the council shall be required.

A.C.A. §14-55-203.

The argument would be that the reference to "a whole number of members elected to the council" does not include the mayor, since the mayor was not "elected to the council." The argument seems plausible, but certain dicta in *Gibson* appears to indicate that the court may not accept it. In *Gibson*, the court was presented with an argument that relied upon the contrast between A.C.A. §14-55-203, quoted above, A.C.A. §14-55-204, concerning appropriation ordinances. Whereas A.C.A. §14-55-203 requires "a majority of a whole number of members elected to the council," A.C.A. §14-55-204 requires "a majority of the Council Members." Regarding the phrase "a whole number of members elected to the council," the court stated: "The parties agree this language would include the mayor since he is an ex officio member of the council." The court did not question this assumption of the parties. Although the proper interpretation of the phrase was not an issue before the court, this aspect of *Gibson* seems to indicate that if presented with the question, the court might conclude that the mayor can be counted toward the "whole number of members elected to the council" who can vote.

On the basis of *Gibson*, I conclude that pending further judicial interpretation of this question, or legislative clarification thereof, the mayor of a city of the first class can vote on matters coming before the city council in situations other than those involving a tie vote on the council. It should be noted that because the statute specifies that the mayor's vote is allowed when needed "to pass" the various measures, the mayor would only be able to vote in the affirmative.

Assistant Attorney General Suzanne Antley prepared the foregoing opinion, which I hereby approve.

Sincerely,
MARK PRYOR
Attorney General
MP:SA/cyh

Opinion No. 2000-250

October 6, 2000

The Honorable Tom Courtway
State Representative
P.O. Box 56
Conway, AR 72033-0056

Dear Representative Courtway:

You have requested an Attorney General opinion concerning the effective dates of city ordinances.

You state that a question of effective dates has arisen in certain communities that do not publish ordinances in a newspaper of general circulation. Rather, these communities post their ordinances in several places in town, pursuant to A.C.A. §14-55-206(a)(1)(B). The ordinances are then filed with the Circuit Clerk.

You have asked:

- (1) If a city ordinance is adopted and contains an emergency clause, when does the ordinance become effective?
- (2) What facts must a city council rely on in the establishment of an emergency clause? If the emergency clause is later challenged, what standard of review do the courts use in determining the validity of the emergency clause?

Response

Question 1 – If a city ordinance is adopted and contains an emergency clause, when does the ordinance become effective?

It is my opinion that a city ordinance that contains an emergency clause becomes effective upon passage. That is, such an ordinance becomes effective as soon as it is voted upon by the requisite number of council members.

The provision in Arkansas law for emergency clauses in local ordinances is contained in Amendment 7 to the Arkansas Constitution, which governs the initiative and referendum process (and which applies to local measures as well as to state-wide measures). The pertinent section of Amendment 7 states:

Emergency - If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective without delay, such necessity shall be stated in one section, and if upon a ye and nay vote two-thirds of all the members elected to each house, or two-thirds of all the members elected to city or town councils, shall vote upon separate roll call in favor of the measure going into immediate operation, **such emergency measure shall become effective without delay.** It shall be necessary, however, to state the fact which constitutes such emergency. Provided, however, that an emergency shall not be declared on any franchise or special privilege or act creating any vested right or interest or alienating any property of the State. If a referendum is filed against any emergency measure such measure shall be a law until it is voted upon by the people, and if it is then rejected by a majority of the electors voting thereon, it shall be thereby repealed. The provisions of this subsection shall apply to city or town councils.

Ark. Const., am. 7 (emphasis added).

The above-quoted language is unambiguous in its statement that measures passed with an emergency clause are to go into effect immediately upon passage. The Arkansas Supreme Court has held that a measure that has been passed under a suspension of the three-day reading rule,⁵ and with an emergency clause (and which is not penal in nature⁶), goes into effect immediately upon adoption, and is not suspended pending its publication. *Kemp v. Simmons*, 244 Ark. 1052, 428 S.W.2d 59 (1968). The *Kemp* court made clear that measures passed with emergency clauses must still be published (pursuant to A.C.A. § 14-55-202), but their effective date is not suspended until their publication.⁷

Question 2 – What facts must a city council rely on in the establishment of an emergency clause? If the emergency clause is later challenged, what standard of review do the courts use in determining the validity of the emergency clause?

It is my opinion that in order to justify the inclusion of an emergency clause in a municipal ordinance, the city council must rely upon facts that show “some sudden or unexpected happening that creates a need for action.” The Arkansas Supreme Court recently defined the term “emergency” in this way in *Bourroughs v. Ingram*, 319 Ark. 530, 535, 893 S.W.2d 319 (1995). The court reiterated this definition in *Priest v. Polk*, 322 Ark. 673, 682, 912 S.W.2d 902 (1995). The court has also described an emergency as “a condition or fact which, if ignored, would imperil the public peace, health and safety[.]” *Cunningham v. Walker*, 198 Ark. 928, 932, 132 S.W.2d 24 (1939). Moreover, the court has held that an academic declaration of a known governmental requirement, or the assertion of an administrative truism, will not, standing alone, constitute such an emergency as to require the immediate operation of a law. *Id.* at 928.

The court has established a test for determining whether a real emergency exists so as to justify the inclusion of an emergency clause. In *Bourroughs*, *supra*, the court stated the test as follows: “[I]f reasonable people might disagree about whether the enunciated fact states an emergency, the clause will be upheld. However, if reasonable people would not think that the facts stated constitute an emergency, then the legislative body has acted arbitrarily and in violation of Amendment 7, and the courts will set the emergency clause aside.” *Bourroughs*, 319 Ark. at 534.

I must note that if an emergency clause is challenged and a court determines that no real emergency existed, that determination would not render the ordinance invalid. The Arkansas Supreme Court has held that the effect of the invalidation of an emergency clause is simply that instead of the legislation in question taking effect immediately, it takes effect as though it did not include an emergency clause. *Beaumont v. Faubus*, 239 Ark. 801, 394 S.W.2d 478 (1965). The invalidation of an emergency clause therefore does not render the legislation to which it is attached invalid.

Assistant Attorney General Suzanne Antley prepared the foregoing opinion, which I hereby approve.

Sincerely,
MARK PRYOR
Attorney General
MP:SA/cyh

⁵ See A.C.A. § 14-55-202.

⁶ Due process concerns dictate that measures dealing with certain issues should not be passed with emergency clauses. In this regard, it should also be noted that Amendment 7 explicitly prohibits certain measures from being passed with emergency clauses. See Ark. Const., am. 7.

⁷ Arkansas law is somewhat unclear as to the effective date of ordinances passed without emergency clauses. Amendment 7 provides that the citizens are to be allowed the right to file a petition for referendum of any local measure no less than thirty days nor more than 90 days after the measure was passed by the city’s governing body. See Ark. Const., am. 7. However, Amendment 7 does not explicitly state (as it does regarding state-wide referenda) that referred measures (without emergency clauses) are to be held in abeyance until voted upon. Although there is some suggestion that measures passed without emergency clauses are effective at the time of their publication, see *City of Eureka Springs v. Brightman*, 243 Ark. 836, 422 S.W.2d 681 (1968) and Ops. Att’y Gen. Nos. 86-239, 98-082, and 97-046, the Arkansas Supreme Court has not squarely addressed this issue. Legislative clarification of this issue would be helpful.

Opinion No. 2002-050

March 22, 2002

The Honorable Calvin Johnson
State Representative
3700 W. 12th Avenue
Pine Bluff, AR 71603-2522

Dear Representative Johnson:

You have requested my opinion concerning the abolition of a municipal utilities commission.

You indicate that the commission in question was created by ordinance under the authority of what is now A.C.A. § 14-201-201 *et seq.* The ordinance gave an already-existing sewer commission the authority to operate various utilities, including a waterworks system. The mayor has now proposed an ordinance that will abolish the commission.

Your question is:

Can a municipal utility commission be abolished by a simple majority vote of the city council, or is a 2/3 vote required?

Response

It is my opinion that a municipal utility commission that was created under the authority of A.C.A. § 14-201-201 *et seq.* can be abolished by the enactment of an ordinance that can be passed by a simple majority vote of the city council.

The provisions of A.C.A. § 14-201-201 *et seq.* authorize city councils to create a commission to operate, control, and supervise municipally owned public utilities, such as water, sewer, or electric plants. This set of statutes does not address the manner in which the commission may be abolished. However, Section 201 does state:

(b) Nothing in this subchapter shall be construed to prohibit the city council of any city subject to the terms of this subchapter from repealing or amending any act which it may have passed pursuant to the authority conferred by this subchapter.

A.C.A. § 14-201-201(b).

Because there are no “terms of this subchapter” that address the manner in which the commission is to be abolished, it is necessary to look to the generally-applicable provisions of law concerning the amendment or repeal of an ordinance. The most pertinent statutory provisions are A.C.A. § 14-55-401 and A.C.A. § 14-55-203.

The first of these, A.C.A. § 14-55-401, states:

All laws, ordinances, resolutions, or orders, lawfully passed and adopted by the city or town council, not inconsistent with the Constitution or laws of this state, shall be, remain, and continue in force until altered or repealed by the council.

A.C.A. § 14-55-401.

Under the above-quoted provision, the ordinance that created the municipal utility commission will continue in force until it has been repealed or altered by subsequent action of the council. Accordingly, the enactment of a subsequent ordinance that abolishes the commission will end the effectiveness of the previous ordinance. The enactment of this subsequent ordinance will be governed by the provisions of A.C.A. § 14-55-203, which state in pertinent part:

(b) To pass any bylaw, ordinance, resolution, or order, a concurrence of a majority of a whole number of members elected to the council shall be required.

A.C.A. § 14-55-203(b).

The above-quoted provision requires only a simple majority to enact an ordinance. Moreover, the provisions of A.C.A. § 14-201-201 *et seq.*, authorizing the creation of the commission, do not require a $\frac{2}{3}$ majority to enact an ordinance abolishing the commission, nor do they incorporate such a requirement from any other law by reference. In addition, I note that the utility commissions that are authorized by A.C.A. § 14-201-201 can be created by a simple majority vote, and the Arkansas Supreme Court has enunciated the principle that “whatever a municipal government may do by a majority vote, it may undo by majority vote, absent constitutional or statutory restrictions.” *City Of Ward v. Ward Water & Sewer System*, 280 Ark. 177, 179, 655 S.W.2d 454 (1983), citing 62 C.J.S. Municipal Corporations, 558(e), p. 1040 (1949); 56 Am.Jur.2d Municipal Corporations, 239, p. 298 (1971). The *City of Ward* court went on to state: “It is a firm rule that the power to make legislation includes the power to repeal.” *Id.* at 180, citing J. Dillon, *Municipal Corporations*, 584, vol. 2, p. 919 (5th ed. 1911).

You have expressed a concern that another provision of law requires a 2/3 majority vote to remove any member of a waterworks commission, and have inquired as to whether this requirement would apply to the utility commission in question since the utility commission has the authority to operate a waterworks system. I believe that you are referring either to the requirement that is stated in A.C.A. § 14-201-108, or to the requirement that is stated in A.C.A. § 14-234-305. Those requirements apply only to municipal waterworks commissions that are created under the authority of A.C.A. § 14-201-105 or A.C.A. § 14-234-302; they do not apply to municipal utility commissions that are created under the authority of A.C.A. § 14-201-201 *et seq.*, such as the one about which you have inquired.⁸

Accordingly, I conclude that an ordinance abolishing a municipal utilities commission that was created under the authority of A.C.A. § 14-201-201 *et seq.* can be passed by a simple majority of vote of the council.

Assistant Attorney General Suzanne Antley prepared the foregoing opinion, which I hereby approve.

Sincerely,
MARK PRYOR
Attorney General

⁸ It should also be noted that the 2/3 vote requirements of A.C.A. § 14-201-108 and A.C.A. § 14-234-305 apply only to the removal of commission members (*i.e.*, members of commissions created under the authority of A.C.A. § 14-201-105 or A.C.A. § 14-234-302); these requirements do not apply to the abolition of the commission itself. See *City Of Ward v. Ward Water & Sewer System*, 280 Ark. 177, 179, 655 S.W.2d 454 (1983) (removal of commission members is not equivalent to abolition of commission). The abolition of commissions created under the authority of A.C.A. § 14-201-105 is addressed in A.C.A. § 14-201-109, and sets forth a different requirement for the abolition of such commissions. The abolition of commissions created under the authority of A.C.A. § 14-234-302 is not addressed by statute.

Opinion No. 2002-132

May 23, 2002

The Honorable Phillip T. Jacobs
State Representative
819 North Miller Street
Clarksville, Arkansas 72830-2239

Dear Representative Jacobs:

I am writing in response to your request for an opinion on several questions regarding the effect of an "abstention" during a city council vote. You state that a question has arisen as to whether a declaration of "present" or "abstain" on a vote should be counted as a yea, nay or neither. Specifically, you reference A.C.A. § 14-55-203, which requires the "concurrence of a majority of a whole number of members elected to the council" to pass any bylaw, ordinance, resolution, or order. You describe a recent city council vote in a city with the mayor/council form of government and six council members. The vote was three "for," two "against," and one "abstention."⁹ I have paraphrased your three questions in this regard as follows:

1. *Under any circumstances should the abstention vote be counted with the three votes in order to provide a majority of the whole number of members of the council and declare the motion passed?*
2. *Would the adoption of procedural rules such as Robert's Rules of Order cause a different ruling to be applied in the above example?*
3. *If the answer to the first question is "yes," could legislation be passed on declaring an abstention vote to be without effect or to be considered a negative vote?*

RESPONSE

It is my opinion that the answer to your first question is "no." To the extent your second question refers to the passage of municipal measures covered by A.C.A. § 14-55-203, a municipality may not, by the adoption of procedural rules, deviate from the requirements of state law. The procedure for the passage of municipal ordinances is a state, rather than a municipal affair. An answer to your third question is unnecessary.

Question 1-- Under any circumstances should the abstention vote be counted with the three votes in order to provide a majority of the whole number of members of the council and declare the motion passed?

In my opinion the answer to this question is "no." Although there has been some uncertainty in the past over this issue, due to an ancient common law rule that allowed abstentions to be counted with the majority, the weight of authority in cases where a separate statute, such as A.C.A. § 14-55-203, sets the vote requirement, is that abstentions are not counted with the majority.

I have not found any controlling legal decision in Arkansas on the point. Cf., however, *Newbold v. Stuttgart*, 145 Ark. 544, 224 S.W. 993 (1920) (where five members of six-member council were present and one Council Member was chosen to preside in absence of mayor and did not vote, ordinance failed under what is now A.C.A. § 14-55-203 where 3 Council Members voted "yes" and 1 "against"). The *Newbold* case is in my opinion not squarely on point because additional facts showed that the requisite 2/3 vote for dispensing with the requirement of three separate readings on separate days was not met. The opinion turned more prominently on this point than the majority of the "whole number" issue. In any event, the result of *Newbold* is consistent with the majority rule as to the effect of abstentions under such circumstances. See also generally, *Van Hovenberg v. Holeman*, 201 Ark. 370, 144 S.W.2d 718 (1940).

As noted above, confusion on the issue is understandable in light of an ancient common law rule regarding the effect of abstentions. The common law rule is described in *City of Haven v. Gregg*, 244 Kan. 117, 766 P.2d 143 (1988) as being that "an abstention is counted as a vote with the majority or at least as acquiescence in the majority vote. . . ." *Id.* at 145. The *Gregg* court goes on to trace the evolution of this rule, by first reciting its genesis in the decision by Lord Mansfield in *Rex v. Foxcroft*, 2 Burr. 1017, 1021, 97 Eng. Rep. 683 (1760), wherein it was stated: "[w]henver electors are present, and don't vote at all . . . [t]hey virtually acquiesce in the election made by those who do." The *Gregg* court notes that: "Numerous subsequent cases interpreted this language to mean that those who refuse to vote, or abstainers, are to be counted as voting with the majority," citing 63 A.L.R.3d 1064 and 4 *McQuillen on Municipal Corporations* § 13.32 (3rd ed. Rev. 1985). The original rationale behind the rule was to prevent abstainers from obstructing governmental operations through their own inaction. See 63 A.L.R.3d 1072, § 3. It is not entirely accurate to state, however, in my opinion, that the common-law rule allows abstentions to be counted as affirmative votes. The effect of the common law rule is to require a majority vote of those present *and voting*. The effect is to ignore the presence of the abstainers in calculating the *total number* of members upon which the required majority is based. Thus, under the common-law rule, the total number of members upon which to calculate the majority can change depending upon how many members actually vote. For example, under the common-law rule, if only five members of a six-member council vote (and one abstains), the total number on which to base the majority is five, and three affirmative votes is a majority of the five. See e.g., Ops. Att'y. Gen. 2001-339 and 2001-326 (where no statute governs the issue, common law rule applies). The abstainers are therefore said to acquiesce in the decision of the majority of those actually voting on the measure, because they are taken out of the equation in calculating the total number of members on which to base the majority.

In many states, however, courts have recognized that particular statutes setting the requisite majority have superseded this common-law rule. See e.g., *Patterson v. Cooper*, 294 N.J. Super. 6, 682 A.2d 266 (1994); *Smith v. Sussex County Council*, 632 A.2d 1387 (Del. 1993); *City of Haven v. Gregg*, 244 Kan. 117, 766 P.2d 143 (1988); *Braddy v. Zych*, 702 S.W.2d 491 (Mo. 1985); *Aurentz v. Planning Board*, 171 N.J. Super. 135, 408 A.2d 140 (1979); *State ex. rel. Stewart v. King*, 562 S.W.2d 704 (Mo. 1978); *Stoltz v. McConnon*, 473 Pa. 157, 373 A.2d 1096 (1977); *Ram Development Company v. Shaw*, 309 Minn. 139, 244 N.W.2d 110 (1976); *Rockland Woods v. Incorporated Village of Suffern*, 40 A.D.2d 385, 340 N.Y.S.2d 513 (1973); *Ezell v. Pascagoula*, 240 So.2d 700 (Miss. 1970); *State ex. rel. Roberts v. Gruber*, 231 Or. 494, 373 P.2d 657 (1962); *Mann v. Housing Authority of City of Paterson*, 20 N.J. Super. 276, 89 A.2d 725 (1952); *Caffey v. Veale*, 193 Okla. 444, 145 P.2d 961 (1944); and *Reese v. State*, 184 Ala. 36, 62 So. 847 (1913). See also Reynolds, "VOTING REQUIREMENTS IN MUNICIPAL GOVERNING BODIES: MINORITY RULE OR LEGISLATIVE STALEMATE?" 27 Urb. Law. 87 (Winter 1995).

Thus, where a statute exists that inalterably sets the vote requirement as a "concurrence of a majority of a whole number of members elected to the council" (such as A.C.A. § 14-55-203), the cases cited above conclude that the common-law rule has no applicability, and has been superseded by the statute. Where a statute exists requiring a majority vote of all members elected to the council, the requisite majority is not based on those members present and voting. It is based instead on the whole number of members elected to the council.

There is some disagreement with this conclusion. The most prominent case to the contrary and one which has been described as expressing a "minority view" (see *State ex. rel. Stewart v. King*, *supra*) is *Northwestern Bell Telephone Company v. Board of Commissioners of the City of Fargo*, 211 N.W.2d 399 (N.D. 1973). The North Dakota Supreme Court held that council members have a duty to vote and if they do not do so, they are to be counted as voting with the majority. See also, *Prosser v. Village of Fox Lake*, 91 Ill.2d 389, 438 N.E.2d 134 (1982); and *Babysak v. Alten*, 106 Ohio. App. 191, 6 Ohio Ops.2d 450, 154 N.E.2d 14 (1958).

It is my opinion that the Arkansas Supreme Court, if faced with the question, would rule with the majority of states facing the question and conclude that an abstention cannot be counted as acquiescence in the majority vote under A.C.A. § 14-55-203. The requisite majority under A.C.A. § 14-55-203 for a six-member council is four votes. Cf. *Mann v. Housing Authority*, *supra*. In my opinion that number does not change depending upon whether there are abstentions. Abstentions are therefore irrelevant to the analysis (see e.g., *Stoltz*, *supra*), or are considered as negative votes (*Patterson v. Cooper*, *supra*).

Question 2-- Would the adoption of procedural rules such as Robert's Rules of Order cause a different ruling to be applied in the above example?

In my opinion the answer to this question is "no," as regards the passage of ordinances and other matters covered by A.C.A. § 14-55-203. State law sets the requisite majority requirement for passage of such matters. A municipality may not adopt local procedural rules that conflict with the requirements of state law. I will also point out that the procedure for the passage of ordinances by a municipality is not a "municipal affair" under A.C.A. § 14-43-601(a)(O), but is rather a "state affair" subject to the general laws of the state. A municipality may not, therefore, deviate from state law on this issue.

Question 3-- If the answer to the first question is "yes," could legislation be passed on declaring an abstention vote to be without effect or to be considered a negative vote?

An answer to this question is unnecessary in light of my negative answer to your first question.

Senior Assistant Attorney General Elana C. Wills prepared the foregoing opinion, which I hereby approve.

Sincerely,
MARK PRYOR
Attorney General
MP:ECW/cyh

⁹ I assume from your description that the mayor did not vote. See A.C.A. § 14-43-501 (b)(1)(B); § 14-44-107(a); and 14-45-105 (a) (giving the mayor in first-class cities, second-class cities and incorporated towns respectively, a vote when needed to pass any ordinance, bylaw, resolution, order or motion.)

Opinion No. 2002-260
November 18, 2002
The Honorable Barbara King
State Representative
106 Tulip Circle
Helena, AR 72342-1620

Dear Representative King:

I am writing in response to your request for an opinion on the following questions:

1. *Can the West Helena City Council pass a resolution to take the place of an ordinance that is already in place for the redistricting of the wards in a first class city?*
2. *In a first class city, does the mayor have a tie-breaking vote that passes an ordinance, which includes an emergency clause, when all members of the council are present and cast four votes 'for' and four votes 'against' the ordinance?*

RESPONSE

It is my opinion that the answer to your first question likely depends upon the effect of the particular redistricting action and the proceedings of the City Council in this regard. These are factual matters that cannot be resolved in the limited format of an opinion from this office. It is my opinion that the answer to your second question is "no."

Question 1 - Can the West Helena City Council pass a resolution to take the place of an ordinance that is already in place for the redistricting of the wards in a first class city?

Arkansas Code Annotated § 14-43-311 (Repl. 1998) provides for the redistricting of wards in cities of the first class with the Council Memberic form of government. See generally Moorman v. Lynch, 310 Ark. 525, 837 S.W.2d 886 (1992) and Op. Att'y Gen. 93-427. This Code section states in pertinent part:

(a)(1)(A) City councils in cities of the first class shall have the authority to redistrict the wards in their city when they determine that the people can best be served by adding wards, combining wards, or changing ward boundary lines to equalize the population in the various wards.

(B) It shall be the duty of the council to see that each ward has as nearly an equal population as would best serve the interest of the people of the city.

(2)(A) Within ninety (90) days after redistricting, if one hundred (100) or more qualified electors in the city are dissatisfied with the redistricting of the city into wards, they shall have the authority to petition the circuit court.

(B) The court, after due hearing, shall have authority to redistrict the city into such wards as the court shall deem best if the court finds that the redistricting action by the council was arbitrary and capricious.

Pursuant to these provisions, therefore, the City Council is responsible for the redistricting of wards whenever it determines that redistricting is necessary to equalize the population of the various wards. The Council can add wards, combine wards, or change boundary lines for this purpose. *Id.* A judicial means of challenging any such redistricting is provided; but the statute is silent as to the specific proceedings of the council, i.e., whether redistricting may be accomplished by ordinance, resolution, or some other action. Nor have I found any other state law defining or specifying the requisite procedure in this regard. Compare A.C.A. §§ 14-55-102 and -103 (regarding ordinance requirement in connection with city's exercise of the police power; see generally *Coal District Power Company v. Booneville*, 169 Ark. 1065, 1068, 278 S.W. 353 (1925) and A.C.A. § 14-169-708 - 801 (providing for the adoption of urban renewal plans through resolutions; see *Adams v. Sims*, 238 Ark. 696, 385 S.W.2d 13 (1964)).

Under these circumstances, it is relevant to note the general rule that "[w]here the law conferring authority on the city council to act does not require same to be exercised by ordinance, it may be exercised by resolution." *Coal District Power Company v. Booneville*, 169 Ark. 1065, 1068, 278 S.W. 353 (1925), citing *Batesville v. Ball*, 100 Ark. 496, 140 Ark. 712 (1911) and *Arkadelphia Lumber Co. v. Arkadelphia*, 56 Ark. 350, 19 S.W. 1053 (1892). As a general matter, therefore, it is my opinion that a city council could exercise its redistricting authority under A.C.A. § 14-43-311 by resolution. Another important principle of law must, however, be recognized in addressing your particular question concerning the passage of a resolution "to take the place of an ordinance that is already in place for the redistricting of the wards. . . ." If the particular resolution in question is of a "general or permanent nature" (A.C.A. §§ 14-55-202 and -206), and the requisite procedures for measures of this nature were not followed, then in my opinion such resolution would be subject to challenge.¹⁰ This principle is illustrated by the case of *McClellan v. Stuckey*, 196 Ark. 816, 120 S.W.2d 155 (1938), involving certain "resolutions" authorizing and approving a special census, which had the effect of changing Lepanto from a town to a city of the second class. The resolutions were not published, and the court held this fatal to the proceedings, stating:

It is immaterial that these enactments of the city council were designated as resolutions. The effect was to provide for a new and different form of government for the municipality which did affect all of the people thereof, and there could have been no good reason why they should not be published. . . .

196 Ark. at 820.

The court in effect held that the resolutions were of a "general" nature, and as such should have been published pursuant to statute. The test for whether a measure is "general or permanent" has been expressed as follows:

Of course, all ordinances enacted by city councils are not permanent in the sense that they cannot be repealed; but those which endure until repealed are deemed to be permanent, and all others are not permanent. Ordinances of a general nature are those which are general and uniform in their application.

City of El Dorado v. Citizens Light & Power Co., 158 Ark. 550, 250 S.W. 882 (1923). See also *Adams v. Sims*, *supra* (holding that an urban renewal plan was neither general nor permanent because it did not encompass the whole city and was effective only for a term of twenty years); *City of Fort Smith v. O.K. Foods, Inc.*, 293 Ark. 379, 738 S.W.2d 96 (1987).

These cases compel me to conclude that the particular redistricting action must be considered when seeking to determine the validity of any "resolution" adopted for this purpose. I believe a court would likely look at the overall effect of the redistricting in order to determine whether it falls into the category of "general and uniform" in application. *City of El Dorado*, *supra*. These are obviously factual considerations that cannot be further developed in the context of this opinion. If, in fact, the particular resolution at issue is general and uniform, the requisite statutory proceedings for ordinances would have to be followed to secure its validity. See n. 1, *supra*.

Question 2 - In a first class city, does the mayor have a tie-breaking vote that passes an ordinance, which includes an emergency clause, when all members of the council are present and cast four votes 'for' and four votes 'against' the ordinance?

It is my opinion that the answer to this question is "no," pursuant to Amendment 7 to the Arkansas Constitution, as interpreted in *Thompson, Mayor v. Younts*, 282 Ark. 524, 669 S.W.2d 471 (1984). Please note that I have enclosed a copy of Attorney General Opinion 96-155, which addresses this question with respect to an incorporated town. The Opinion applies as well to a city of the first class, which must pass its emergency measures by a vote of "two-thirds of all the members elected to [the] city . . . [council]." Ark. Const. amend. 7 (under "Emergency.") I will not restate the analysis, but instead refer you to Opinion 96-155 for a thorough discussion of the issue and conclusion.

Assistant Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,
MARK PRYOR
Attorney General
MP:EAW/cyh
Enclosure

¹⁰ Measures of a "general or permanent nature" are considered ordinances and must be read on three different days pursuant to A.C.A. § 14-55-202, unless the rule is dispensed with. Such ordinances must also be properly recorded and authenticated (A.C.A. § 14-55-205), and they must be published in accordance with A.C.A. § 14-55-206.

Opinion No. 2003-066

April 4, 2003

The Honorable Michael Lamoureux
State Representative
P.O. Box 1064
Russellville, AR 72811-1064

Dear Representative Lamoureux:

You have presented the following questions for my opinion:

- (1) *Is an ordinance in effect if it is passed and approved by the city council on its third reading but never published in a local newspaper?*
- (2) *Would the answer be any different if the ordinance was never signed by the mayor and City Clerk-Treasurer?*
- (3) *Would the answer to the first question be any different if the ordinance passed and approved by the city council had an emergency clause?*
- (4) *If an ordinance is passed and approved by the city council as well as signed by the mayor and City Clerk-Treasurer but never published in a local newspaper, could subsequent publication of the ordinance a number of years later cure any defect and put the ordinance into effect?*
- (5) *Would the answer to Question 4 be any different if the ordinance was never signed by the mayor or City Clerk-Treasurer at the time of passage and approval by the city council but subsequently signed by the mayor and City Clerk-Treasurer after a period of years and published in a local newspaper?*

Response

Question 1 – Is an ordinance in effect if it is passed and approved by the city council on its third reading but never published in a local newspaper?

It is my opinion that a non-emergency ordinance¹¹ cannot go into effect if it is not published in a local newspaper (or posted, if the municipality does not have a local newspaper).

This issue is explicitly addressed in A.C.A. § 14-55-203, which states in pertinent part:

(c) The effective dates for ordinances and other local measures of cities of the first class, cities of the second class, and incorporated towns shall be as follows:

(1) **Upon publication or posting** as is otherwise required by law, but not before ninety-one (91) days after passage by the governing body of the city or town;

A.C.A. § 14-55-203(c)(1) (emphasis added).

The above-quoted statutory language is clear and unambiguous. Non-emergency city ordinances will not go into effect until they are published as required by law (and not before ninety-one days after passage).

Moreover, ordinances that are not published are deemed invalid and the Arkansas Supreme Court has held that later publication of such ordinances will not revive them.

In *City of Fort Smith v. O.K. Foods, Inc.*, 293 Ark. 379, 738 S.W.2d 96 (1987), the city enacted an ordinance increasing sewer rates and began collecting the increased rates on October 1, 1983. However, the city failed to comply with certain pre-enactment hearing and publication requirements set forth in the statutes authorizing cities to enact ordinances establishing sewer rates. (See A.C.A. § 14-234-223.) The city also failed to comply with the generally-applicable post-enactment publication requirements of the statute now codified at A.C.A. § 14-55-206. The current version of that requirement now states:

(a)(1)(A) All bylaws or ordinances of a general or permanent nature and all those imposing any fine, penalty, or forfeiture shall be published in some newspaper published in the municipality.

(B) In municipalities in which no newspaper is published, written or printed notice posted in five (5) of the most public places designated by the governing body in an ordinance or minutes of the governing body shall be deemed a sufficient publication of any law or ordinance.

(2) It shall be deemed a sufficient defense to any suit or prosecution of such fine, penalty, or forfeiture to show that no notice was given as provided herein.

(b) As to ordinances establishing rules and regulations for zoning, construction of buildings, the installation of plumbing, the installation of electric wiring, or other similar work, where such rules and regulations have been printed as a code in book form, the code or provisions thereof may be published by the municipality by reference to title of the code without further publication or posting thereof. However, no fewer than three (3) copies of the code shall be filed for use and examination by the public in the office of the clerk or recorder of the municipality subsequent to the adoption thereof.

A.C.A. § 14-55-206.

However, the city did publish the ordinance considerably later (on February 15, 1985). The Arkansas Supreme Court held that the city's failure to comply with both the pre-enactment hearing and publication requirements and the post-enactment publication requirements rendered the ordinance invalid. The court further held that city's later publication of the ordinance did not revive it. The ordinance was therefore never valid, and the court ordered a refund of all increased amounts paid pursuant to the ordinance. The court specifically noted that the procedural requirements for the passage of ordinances is mandatory and must be complied with in order for the ordinance in question to be valid. *City of Ft. Smith*, 293 Ark. at 384. *Accord, Brooks*, 304 Ark. at 576, citing *City of Benton v. Phillips*, 191 Ark. 961, 88 S.W.2d 828 (1936).

The court has continued to apply a strict compliance standard to the procedural requirements for the passage of city ordinances. See, e.g., *Phillips v. City of Eureka Springs*, 312 Ark. 57, 847 S.W.2d 21 (1993) (finding ordinance invalid where published by private citizen rather than the city). See also *Brooks v. City of Benton*, 308 Ark. 571, 826 S.W.2d 259 (1992) (reversing summary judgment upon finding genuine issue of fact as to whether ordinance was invalid because notice to public did not strictly comply with requirement of expressly stating the availability of a map and zoning regulations being incorporated into the ordinance by reference).

On the basis of the explicit language of A.C.A. § 14-55-203(c)(1), the mandatory language of A.C.A. § A.C.A. § 14-55-206, and the above-referenced judicial precedents, I conclude that a non-emergency ordinance that is not published as required by law cannot go into effect and is not valid.

Question 2 – Would the answer be any different if the ordinance was never signed by the mayor and City Clerk-Treasurer?

It is my opinion, on the basis of the precedents referenced in response to Question 1, that if the ordinance was never signed by the mayor and City Clerk-Treasurer, it is not valid.¹²

The requirement that ordinances be signed by the mayor and City Clerk-Treasurer is stated in A.C.A. §14-55-205, as follows:

All bylaws or ordinances after their passage shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the presiding officer of the governing body and the clerk or recorder.

A.C.A. §14-55-205.

The Arkansas appellate courts have not engaged in an analysis or interpretation of the language of A.C.A. §14-55-205. It is my opinion that if the courts were to engage in such an analysis, they would take the same strict approach that the Arkansas Supreme Court took in the cases referenced in response to Question 1. That is, I believe that the courts would hold that because the above-quoted authentication requirement is stated in mandatory terms, it requires strict compliance, and a failure to comply strictly with this requirement will render an ordinance invalid. *Accord, City of Corning v. Watson*, 252 Ark. 1277, 482 S.W.2d 797 (1972) (affirming lower court's ruling that ordinance incorporating map was invalid because map not authenticated as required by law).

Question 3 – Would the answer to the first question be any different if the ordinance passed and approved by the city council had an emergency clause?

It is my opinion that if the ordinance in question contained an emergency clause but was not published, it did go into effect immediately upon passage. However, it cannot be enforced to impose a fine, penalty, forfeiture or deprivation of liberty or property until it has been published within a reasonable time. If the ordinance does not impose a fine, penalty, forfeiture or deprivation of liberty or property, it can be enforced prior to publication if it is published within a reasonable time. However, if the ordinance is "never" published (as indicated by your question), it is my opinion that it is not valid, for the reasons stated in response to Question 1.

¹¹ Emergency ordinances are discussed in response to Question 3, *infra*.

¹² I interpret this question to indicate that the ordinance was neither signed nor published. My answer to this question would be the same even if it is assumed that the ordinance was published but not signed.

The effective date of ordinances containing emergency clauses is set forth in A.C.A. § 14-55-203, as follows:

(c) The effective dates for ordinances and other local measures of cities of the first class, cities of the second class, and incorporated towns shall be as follows:

(3) An ordinance containing an emergency clause shall go into effect immediately upon passage or at the time specified by the emergency clause, regardless of publication or posting, but an emergency clause shall not be effective to impose any fine, penalty, forfeiture, or deprivation of liberty or property until after the ordinance has been published or posted as is otherwise required by law.

A.C.A. § 14-55-203(c)(3).

Moreover, Amendment 7 to the Arkansas Constitution states:

Emergency - If it shall be necessary for the preservation of the public peace, health and safety that a measure shall become effective without delay, such necessity shall be stated in one section, and if upon a ye and nay vote two-thirds of all the members elected to each house, or two-thirds of all the members elected to city or town councils, shall vote upon separate roll call in favor of the measure going into immediate operation, such emergency measure shall become effective without delay. It shall be necessary, however, to state the fact which constitutes such emergency. Provided, however, that an emergency shall not be declared on any franchise or special privilege or act creating any vested right or interest or alienating any property of the State. If a referendum is filed against any emergency measure such measure shall be a law until it is voted upon by the people, and if it is then rejected by a majority of the electors voting thereon, it shall be thereby repealed. The provisions of this subsection shall apply to city or town councils.

Ark. Const., Am. 7.

It is clear from the language of Amendment 7 and A.C.A. § 14-55-203(c)(3) that emergency ordinances become effective immediately upon passage without regard to publication. However, it is also clear that such ordinances cannot be enforced to impose a fine, penalty, forfeiture or deprivation of liberty or property until they have been published.

A question thus arises as to whether an emergency ordinance that does not impose a fine, penalty, forfeiture or deprivation of liberty or property can be enforced prior to publication. Certain *dicta* of the Arkansas Supreme Court in *Kemp v. Simmons*, 244 Ark. 1052, 428 S.W.2d 59 (1968) seems to indicate that if the emergency ordinance is published within a reasonable time,¹³ it can be enforced prior to publication if it does not impose a fine, penalty, forfeiture or deprivation of liberty or property. In *Kemp*, the court addressed the issue of whether an emergency ordinance to close part of a road had gone into effect before it was published. The court held that it had gone into effect, and stated:

We do not imply that the adoption of an emergency clause dispenses with the necessity for publication, but the effectiveness of an emergency ordinance not providing for fine, penalty, or forfeiture should not be suspended until publication *at least if it is published within a reasonable time*.¹⁴

Id. at 1064 (emphasis added).

I therefore conclude that an ordinance containing an emergency clause goes into effect immediately upon passage. However, it cannot be enforced to impose a fine, penalty, forfeiture or deprivation of liberty or property until it has been published within a reasonable time. It can be enforced prior to publication for purposes other than to impose a fine, penalty, forfeiture or deprivation of liberty or property if it is published within a reasonable time. If the ordinance is never published, it is not valid.

Question 4 – If an ordinance is passed and approved by the city council as well as signed by the mayor and City Clerk-Treasurer but never published in a local newspaper, could subsequent publication of the ordinance a number of years later cure any defect and put the ordinance into effect?

It is my opinion, as indicated in the above discussion in response to Question 3, that an ordinance that is not published within a reasonable time is not valid and cannot be revived by later publication. As discussed in response to Question 1, the Arkansas Supreme Court so held in *City of Fort Smith v. O.K. Foods, Inc.*, 293 Ark. 379, 738 S.W.2d 96 (1987). Again, the city in that case enacted an ordinance on October 1, 1983, but did not publish it until February 15, 1985. The court held that this later publication was insufficient to breathe life into the ordinance.

A factor that complicates this issue is that the statute that sets forth the publication requirement (A.C.A. § 14-55-206) does not state a time period during which publication must occur. The “within a reasonable time” *dicta* from *Kemp*, quoted previously in response to Question 3, is the best guidance available on the question of the time period during which publication of ordinances must occur. I therefore conclude, on the basis of that *dicta* and *City of Ft. Smith, supra*, that if an ordinance is not published within a reasonable time, it is not valid, and later publication of the ordinance will not suffice to render it valid.

The question of what constitutes a “reasonable time” is, in my opinion, a question of fact that will turn on the pertinent circumstances of each case.

Question 5 – Would the answer to Question 4 be any different if the ordinance was never signed by the mayor or City Clerk-Treasurer at the time of passage and approval by the city council but subsequently signed by the mayor and City Clerk-Treasurer after a period of years and published in a local newspaper?

The Arkansas Supreme Court has not addressed this question, as applied to the authentication requirement. It is my opinion, however, that if the court were faced with the question, it would take the same “reasonable time” approach that it indicated in *Kemp, supra*, it would apply to the publication requirement.

The requirement that the mayor and clerk sign ordinances, as stated in A.C.A. § 14-55-205 (discussed previously in response to Question 2), is mandatory. However, as with the publication requirement, the statute does not state a time period during which this authentication is to occur. Although it is my opinion, as indicated previously, that a complete failure to have the ordinance authenticated as required by A.C.A. § 14-55-205 will render the ordinance invalid, I believe that if the mayor and clerk sign an ordinance within a reasonable time, this will suffice to meet the authentication requirement. If they do not sign within a reasonable time, it is my opinion that the ordinance is not valid, and later signing of it will not revive it.

Again, the Arkansas Supreme Court has not addressed this issue, but the most analogous available authority (*i.e.*, the *dicta* from *Kemp* and the *City of Ft. Smith* decision, *supra*) indicates that the court would likely take this approach if faced with the issue. Pending further guidance from the court on this issue (or legislative clarification), it is my opinion that this is a reasonable interpretation of the requirement.

Assistant Attorney General Suzanne Antley prepared the foregoing opinion, which I hereby approve.

Sincerely,
MIKE BEEBE
Attorney General

¹³ As discussed in response to Question 4, *infra*, A.C.A. § 14-55-206, which establishes the publication requirement, does not state a specific time period during which publication of ordinances is to occur.

¹⁴ It should be noted that *Kemp* was a 1968 case. The language of A.C.A. § 14-55-203(c) (which includes the limitation on effectiveness until publication) was not added to the statute until 2001.

Opinion No. 2004-326

The Honorable Shane Broadway
State Senator
201 Southeast Second Street
Bryant, Arkansas 72022

Dear Senator Broadway:

You have requested an Attorney General opinion on the following question:

If the council of a city of the first class requires that seven (7) votes are needed to suspend their rules, may the vote of the Mayor be counted along with six (6) other members of the city council to properly suspend the rules?

RESPONSE

It is my opinion that the council of a city of the first class that requires seven votes to suspend their rules may properly count the vote of the Mayor along with six other members of the council to suspend the rules.

The governing law in this situation is Arkansas Code Annotated § 14-43-501 (Repl. 1998). Subsection (b) (1) directly addresses the power of a Mayor with respect to meetings of a council of a city of the first class. It states:

(A) The mayor shall be *ex officio* president of the city council and shall preside at its meetings.

(B) The mayor shall have a vote to establish the quorum of the city council at any regular meeting of the city council and when his vote is needed to pass any ordinance, bylaw, resolution, order, or *motion*.

Id. (emphasis added). The Arkansas Code Annotated mentions suspension of “the rule” in Section 14-55-202 (Repl. 1998). It states:

All bylaws and ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days unless two-thirds (2/3) of the members composing the municipal council shall dispense with the rule.

Id. The Arkansas Supreme Court has addressed the question of when a Mayor’s vote is proper in a city council in *Thompson v. Younts*, 282 Ark. 524, 669 S.W.2d 471 (1984) and *Gibson v. City of Truman*, 311 Ark. 561, 845 S.W.2d 515 (1993). In *Thompson*, the court held that under Amendment 7 to the Arkansas Constitution, the Mayor was not a “member[] elected to ... the city council” and could not exercise his voting power with respect to amending or repealing a measure approved by the people. 282 Ark. at 530. However, in *Gibson*, the court held that the Mayor may exercise his vote to pass an appropriations ordinance distinguishing *Thompson*, 282 Ark., as specifically relating to the provisions of Amendment 7 to the Arkansas Constitution. 311 Ark. at 563. Furthermore, the Arkansas Supreme Court held that Act 345 of 1981 amending A.C.A. § 14-43-501 (b) (1) (B), set out above, expressly gave the Mayor the power to vote in favor of an appropriations ordinance despite not being an “Council Member” with respect to A.C.A. § 14-55-204 (Repl. 1998).

In my opinion, this question is similar to *Gibson*. Section 14-55-202 of the Arkansas Code Annotated provides that the rule regarding the reading of bylaws and ordinances may be suspended if two-thirds of the “members composing the municipal council” so vote. The Arkansas Code also defines the Mayor of a city as the *ex officio* president of the municipal council. A.C.A. § 14-43-501. The Mayor is, therefore, a member composing the municipal council and in my opinion he may vote to reach the required number to suspend the rules under A.C.A. § 14-55-202.

If you are referencing the suspension of the rules for some other purpose, I still opine that the Mayor’s vote may be properly counted under the general rules of parliamentary procedure. My predecessors have opined that, in the absence of local procedural rules, the general rules of parliamentary procedure apply. *See, e.g.* Op. Att’y Gen 98-282; Op. Att’y Gen 95-152 (citing 62 C.J.S. Municipal Corporations § 400(a) (1949)); and 62 C.J.S. Municipal Corporations § 232(a) (Supp. 2004). Your request for an opinion does not indicate the presence or absence of any local procedural rules that would apply to this situation. Assuming that there are no local procedural rules, I will look to general parliamentary procedure as per my predecessors’ opinions.

Roberts Rules of Order notes that the only way to suspend the rules is by a motion to suspend the rules. *Roberts Rules of Order* 222 (7th Ed. 1970). Therefore, in the hypothetical presented by your request for an opinion, the Mayor, in voting to suspend the rules, is voting to pass a motion to suspend the rules. Arkansas Code Annotated § 14-43-501 (b) (1) specifically states that the Mayor of a city of the first class may vote to pass any motion. Accordingly, I believe that the Mayor of a city of the first class may vote with 6 members of the city council to properly suspend the rules when the city council requires 7 votes to suspend the rules.

Assistant Attorney General Joel DiPippa prepared the foregoing opinion, which I hereby approve.

Sincerely,
MIKE BEEBE
Attorney General
MB:JD/cyh

Appendix N

30 tips for newly elected Mayors and Council Members

- 1** Allow yourself enough time to be effective. Just attending council meetings isn't enough-you must study and discuss the problems and keep yourself informed on what's going on. To do even a fair job takes a lot of time.
- 2** Pace yourself. Limit the number of meetings you have. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out. Recognize that life-and the city-is dependent on a lot of things we have little control over.
- 3** Don't make promises you can't deliver. Most major decisions and actions require approval of the governing body, and this takes a majority vote.
- 4** Treat everyone the same. Be consistent. And always deal with people as if you will have to deal with them again. Even if you don't, someone else will.
- 5** Don't spend most of your time checking on what your city staff has already done. Your primary job is to provide policies and direction for the city. For example, instead of spending time reviewing invoices, make sure you have a good purchasing practice through which invoices are generated in the first place.
- 6** Take your budget preparation job seriously, for it determines what your city does or doesn't do for the coming year. It's the biggest policy development tool available to govern the city. And when budget cutbacks are essential, don't cut back on those activities that are vital to the critical operation of the city.
- 7** Be alert for the little things. They are the things that always seem to grow and come back to get you.
- 8** Establish policy statements. Written policy statements let the public and the city staff know where they stand. They help the governing body govern, and writing them provides a process to develop consensus. "That's the way it's always been done" is not good enough to either stay out of trouble or to get things done.
- 9** Maintain the infrastructure. Make certain you are adequately keeping up with what you now have before taking on any new projects. Deferring maintenance costs to the future simply shifts your troubles to those who follow you in the future.
- 10** Don't give quick answers when you're not sure of the real answer. It may be embarrassing to appear ignorant, but it can be more embarrassing to tell a person something that is wrong.
- 11** Don't be stampeded into action. Don't be misled by the strong demands of special interest groups who want it done now, their way. Your job is to find the long-term public interest of the city, and you may be hearing from the wrong people.
- 12** Don't spring surprises on your fellow council- members or your city staff, especially at formal meetings. If a matter is worth bringing up for discussion, it should be put on the agenda. Surprises may get you some publicity at the embarrassment of others, but they tend to erode the "team" approach to governance.
- 13** Don't bypass the system. If you have a city manager or other chief administrative official, stick to policy and avoid personal involvement in day-to-day operations.
- 14** Don't let others bypass your system. Insist that people such as bond dealers or equipment suppliers first work with your city staff. If direct contact with councilmembers is advisable, this should be with the council as a whole and not on a one-on-one basis.
- 15** Formalize your personnel rules and regulations. Make sure they're clear. For example, if you don't pay for unused sick leave when an employee is terminated, put it in writing. Once the rules are established, councilmembers should avoid the temptation to get involved in personnel matters.
- 16** Familiarize yourself with FOIA, the Freedom of Information Act. Respect the letter and intent of the act, and don't underestimate its importance and seriousness.

- 17** Keep your constituents informed through such means as a weekly editorial in the local newspaper, radio interviews, or news releases. Be friendly and deal effectively with the news media. Lack of proper communications is one of the biggest problems of cities.
- 18** Keep your employees informed also, particularly those on the front line who make decisions or are in frequent contact with the people.
- 19** Appoint citizen advisory committees as needed, but be prepared to follow their advice. Appointing your opposition to a useful committee can let them work for you, instead of against you.
- 20** Hire the best people you can and give them as much responsibility as they can and will handle. There is always the possibility that they will get you into trouble at first, but if you stand behind them, eventually they can keep you out of trouble.
- 21** Charge your employees with being responsible for new ideas and better ways of doing things. Listen to what they have to say.
- 22** Have your city attorney attend your council meetings, but don't expect the attorney to know all the answers right on the spot. Give the attorney the chance to research the matter.
- 23** Don't simply ask your city attorney whether or not you can do something. Sometimes the most appropriate question is, "How can we legally accomplish this objective?"
- 24** If yours is a typical city, don't expect your city attorney to be an expert on every issue; city government is complex. On occasion, you may need outside counsel, and it will be a good investment of public funds.
- 25** Elected officials should accept their leadership responsibilities, such as selling new programs to the public.
- 26** Make sure you have a good financial accounting and reporting system. Some cities have gotten into financial troubles simply because they spent more money than they had available and nobody knew it.
- 27** Don't act as if the city operates in a vacuum. We must work within the intergovernmental system to be effective. Keep in contact with your federal, state, county, and school officials. Use the Arkansas Municipal League.
- 28** Don't let a consultant take your place. You are the one who will be around to hear criticisms if things don't turn out right. The consultant should realize this. Even though we expect their best judgment, they should expect us to want to look over their shoulders.
- 29** Don't be hesitant to budget money for your officers and employees to attend League works and conferences. These provide excellent learning opportunities and personal contacts that can be very valuable to your city.
- 30** Finally, define what "trouble" means to you. We must realize that we work in a fish bowl environment and that most of the things we do affect people. Many times, they will be affected in a manner they don't like. If "trouble" means having someone mad at you, you're in the wrong business. We should handle each item in a straightforward way that we know or believe to be correct. If things don't turn out the way they should-after all, even public officers and employees can make mistakes-no one can accuse you of improper motives, and you will know you did what you thought was proper.

Appendix O
RULES ON GIFTS
ARKANSAS ETHICS COMMISSION
Post Office Box 1917

**Little Rock, Arkansas 72203-1917
(501) 324-9600 or (800) 422-7773
Facsimile (501) 324-9606**

§ 300 Definitions

(a) **Compensation** – As used in these rules, the term “compensation” means any money or anything of value received, or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof. It includes a payment made under obligation for services or other value received. The term “compensation” does not include anything of value presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee’s contribution to education.

(b) **Gift** – As used in these rules, the term “gift” means any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor. It does not include:

- (1) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties. (NOTE: payments for travel or reimbursement for any expenses are not informational material);
- (2) The giving or receiving of food, lodging, or travel which bears a relationship to the public servant’s office and when appearing in an official capacity;
- (3) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor;
- (4) Gifts from an individual’s spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this paragraph;
- (5) Campaign contributions;
- (6) Any devise or inheritance;
- (7) Anything with a value of \$100 or less (NOTE: The value of an item shall be considered to be less than \$100 if the public servant reimburses the person from whom the item was received any amount over \$100 and the reimbursement occurs within ten (10) days from the date the item was received.);
- (8) Wedding presents and engagement gifts;
- (9) A monetary or other award presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee’s contribution to education;
- (10) Tickets to charitable fundraising events held within this state by a non-profit organization which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code;
- (11) A personalized award, plaque, or trophy with a value of one hundred fifty dollars (\$150) or less;

- (12) An item which appointed or elected members of a specific governmental body purchase with their own personal funds and present to a fellow member of that governmental body in recognition of public service;
 - (13) Food or beverages provided at a conference scheduled event that is part of the program of the conference;
 - (14) Food or beverages provided in return for participation in a bona fide panel, seminar, speaking engagement at which the audience is a civic, social, or cultural organization or group;
 - (15) A monetary or other award publicly presented to an employee of state government in recognition of his or her contributions to the community and State of Arkansas when the presentation is made by the employee's supervisor or peers, individually or through a non-profit organization which is exempt from taxation under Section 501(c) of the Internal Revenue Code, and the employee's receipt of the award would not result in or create the appearance of the employee using his or her position for private gain, giving preferential treatment to any person, or losing independence or impartiality. (NOTE: This exception shall not apply to an award presented to an employee of state government by a person having economic interests which may be affected by the performance or nonperformance of the employee's duties or responsibilities.);
 - (16) Any work of art, contracted for prior to January 1, 1998, for public service recognition for members of the Arkansas General Assembly; or
 - (17) Racing passes provided to and accepted by members of the General Assembly and other constitutional officers for redistribution to their constituents and persons residing outside the State of Arkansas to promote tourism and advance the economic interests of the State.
 - (18) Anything of value provided by a political party under § 7-1-101 or § 7-7-205 when serving as the host of the following events to all attendees as part of attendance at the event:
 - (A) The official swearing-in, inaugural, and recognition events of constitutional officers and members of the General Assembly; and
 - (B) An official event of a recognized political party so long as all members of either house of the General Assembly affiliated with the recognized political party are invited to the official event.
- (c) **Governmental Body** – As used in these rules, the term “governmental body” means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof.
- (d) **Legislator** – As used in these rules, the term “legislator” means any person who is a member of the General Assembly, a quorum court of any county, or the city council or board of directors of any municipality, or a member of a school district board of directors.
- (e) **Official Capacity** – As used in these rules, the term “official capacity” means activities which arise solely because of the position held by the public servant, which would be subject to expense reimbursement by the agency with which the public servant is associated, and which involve matters falling within the official responsibilities of the public servant.

- (f) **Person** – As used in these rules, the term “person” means a business, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons.
- (g) **Public Appointee** – As used in these rules, the term “public appointee” means an individual who is appointed to a governmental body. It does not include an individual appointed to an elective office.
- (h) **Public Employee** – As used in these rules, the term “public employee” means an individual who is employed by a governmental body or who is appointed to serve a governmental body. It does not include public officials or public appointees.
- (i) **Public Official** – (1) As used in these rules, the term “public official” means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office, and shall include such persons during the time period between the date they were elected and the date they took office.
(2) “Public official” includes without limitation a member of a school district board of directors.
- (j) **Public Servant** – As used in these rules, the term “public servant” means all public officials, public employees, and public appointees.
- (k) **Recognized political party**- (1) As used in these rules, the term “recognized political party” means a political party that:
(A) At the last preceding general election polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office; or
(B) Has been formed by the petition process under §7-7-205.
(2) When a recognized political party fails to obtain three percent (3%) of the total votes cast in an election for the office of Governor or nominees for presidential electors, it shall cease to be a recognized political party.
- (l) **Registered Lobbyist** – As used in these rules, the term “registered lobbyist” means a person who is registered as a lobbyist pursuant to the provisions of Ark. Code Ann. §21-8-601 *et seq.*

§ 301 Payment of Public Servant’s Expenses for Food, Lodging, or Travel

- (a) The giving or receiving of food, lodging, or travel shall not be considered a gift in situations where a public servant is appearing in his or her official capacity and the appearance bears a relationship to the public servant’s office or position.
- (b) For purposes of this rule, a public servant appears in an official capacity when the appearance arises solely because of the position held by the public servant, would be subject to expense reimbursement by the agency with which the public servant is associated, and involves matters which fall within the official responsibility of the public servant.
- (c) For purposes of this rule, an appearance at an event bears a relationship to the public servant’s office or position when such appearance furthers a purpose of the governmental body served by the public servant and the interest of such governmental body outweighs the likelihood that attending the event will improperly influence the public servant in the performance of his or her official duties and responsibilities. Factors to be considered in making a determination as to whether or not an appearance bears a relationship to a public servant’s office or position shall include, but not be limited to: the nature of any pending matter

affecting the interest of the person paying for the food, lodging, or travel; the importance of the event to the governmental entity; the significance of the public servant's role in the event; the timing of the event; the identity of other expected participants; and, the cost of the public servant attending the event. If a public servant is invited to attend a purely social event with no or a *de minimis* nexus to the programs or operations of the governmental entity which he or she serves, then the public servant's attendance would not bear a sufficient relationship to his or her office or position to meet the exception contained in subsection (a) of this rule.

§ 302 Reporting of Payments for Public Servant's Expenses for Food, Lodging, or Travel

- (a) In situations where a registered lobbyist pays all or part of an expenditure in excess of \$40 on behalf of a public servant for food, lodging, or travel, such lobbyist shall be required to report an itemized listing of the payment on a Lobbyist Activity Report pursuant to §511 of the Commission's Rules on Lobbyist Registration and Reporting. Those reporting requirements apply regardless of whether the public servant is appearing in his or her official capacity or the event bears a relationship to the public servant's office or position.
- (b) If a nongovernmental source makes an expenditure for food, lodging, or travel in excess of \$150 on behalf of a public servant who is (i) appearing in his or her official capacity at an event which bears a relationship to his or her office or position and (ii) required to file a Statement of Financial Interest pursuant to Ark. Code Ann. §21-8-701(a), then such payment would need to be reported by the public servant in Section 10 of his or her Statement of Financial Interest.
- (c) In situations where a public servant makes an appearance which is not an appearance in his or her official capacity or which does not bear a relationship to his or her office or position, a payment for food, lodging, or travel in excess of \$100 on behalf of the public servant would be considered a gift, unless such payment is otherwise excepted from the definition of gift. Assuming the public servant is required to file a Statement of Financial Interest pursuant to Ark. Code Ann. §21-8-701(a), the receipt of such food, lodging, or travel would need to be reported as a gift in Section 8 of his or her Statement of Financial Interest.

§ 303 Receipt of Gifts by Public Servants

- (a) No public servant shall receive a gift for the performance of the duties and responsibilities of his or her office or position.
- (b) For purposes of this rule, a gift shall be prohibited if it is intended to reward a public servant for doing his or her job or it is intended as a reward for past or future action. In contrast to bribery which requires a showing that a gift and some official action motivated each other, a gift is prohibited by this rule if the gift is for or because of the action. In order for a gift to be prohibited, it need not be shown that the official action was for or because of the gift.
- (c) A public servant is not prohibited from receiving an item conferred to show appreciation for the public servant's job performance (i.e., to reward the public servant for doing his or her job) so long as the value of the item does not exceed \$100. Items costing more than \$100 which are given to public servants to show appreciation for their efforts (i.e., to reward them for doing their job) or to reward them for past or future action are prohibited under this rule.
- (d) A public servant is not prohibited from receiving all gifts. For example, a public

servant may accept a gift conferred on account of a *bona fide* personal, professional, or business relationship independent of his or her official status. In determining whether a gift was conferred on account of an independent relationship, the Commission will consider such factors as when the relationship began (i.e., before or after the public servant obtained his or her office or position), the prior history of gift giving between the individuals, whether the gift was given in connection with a holiday or other special occasion, and whether the same gift was given to other public servants.

§ 304 Providing Gifts to Public Servants

- (a) No person shall confer a gift to any public servant, the receipt of which is prohibited by §303 of these rules.
- (b) The first violation of this section by any person other than a registered lobbyist shall result in a written warning. Upon a second and subsequent violations by persons other than registered lobbyists and upon a first violation by registered lobbyists, the sanctions provided for in Ark. Code Ann. §7-6-218 shall apply.

§ 305 Reporting of Gifts and Awards Received by Public Servants

- (a) A public servant required to file a Statement of Financial Interest shall report the source, date, description, and a reasonable estimate of the fair market value of each gift of more than \$100 received by the public servant or his or her spouse or more than \$250 received by his or her dependent children.
- (b) A public servant required to file a Statement of Financial Interest shall report the source, date, description, and a reasonable estimate of the fair market value of each monetary or other award of more than \$100 received by the public servant in his or her capacity as an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of his or her contribution to education.

§ 306 Receipt of Compensation by Public Servants

- (a) Except as expressly provided by statute, no public servant shall receive compensation, other than income and benefits from the governmental body which he or she serves, for the performance of the duties and responsibilities of his or her office or position.
- (b) It is the intent of this rule that a public servant be prohibited from receiving outside compensation for doing his or her job.

§ 307 Providing Compensation to Public Servants

- (a) No person shall confer compensation to any public servant, the receipt of which is prohibited by § 306 of these rules.
- (b) The first violation of this section by any person other than a registered lobbyist shall result in a written warning. Upon a second and subsequent violations by persons other than registered lobbyists and upon a first violation by registered lobbyists, the sanctions provided for in Ark. Code Ann. §7-6-218 shall apply.

§ 308 Gifts to Governmental Entities

- (a)(1) The Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Commissioner of State Lands, and Attorney General, in their

official capacity, may accept gifts, grants, and donations of money or property on behalf of the state for any lawful public purpose.

- (2) The President Pro Tempore of the Senate, in his or her official capacity, may accept gifts, grants, and donations of money or property on behalf of the Senate for any lawful public purpose.
 - (3) The Speaker of the House, in his or her official capacity, may accept gifts, grants, and donations of money or property on behalf of the House of Representatives for any lawful public purpose.
 - (4) The Chief Justice of the Supreme Court, in his or her official capacity, may accept gifts, grants, and donations of money or property on behalf of the Supreme Court for any lawful public purpose.
- (b)(1) Except as provided in subdivision (2) of this subsection, the item received shall not be of such a personal nature that its use is limited to a specific person or persons, shall be available to be enjoyed by the public at large, *and* shall become property of the governmental entity to which it was donated.
- (2) The designated officials may accept donations of money for purposes of hosting the:
 - (A) Official swearing-in and inaugural events of the constitutional officers, Senate, House of Representatives, and Supreme Court justices;
 - (B) Official recognition event for the President Pro Tempore; and
 - (C) Official recognition event for the Speaker of the House.

§ 309 Reporting of Gifts to Governmental Entities

A public official accepting a gift, grant, or donation of money on behalf of a governmental entity in accordance with §308 of these rules shall, on a quarterly basis, disclose to the Ethics Commission:

- (i) The gift, grant, or donation of money or property received;
- (ii) The person donating the gift, grant, or donation of money or property; and
- (iii) The estimated value of the gift, grant, or donation of money or property.

§ 310 Valuation of Gifts

- (a) Except as otherwise provided below, the value of a gift for purposes of these rules shall be its fair market value at the time the gift was conferred. Fair market value means the price the good or service would bring between a willing seller and a willing buyer in the open market after negotiations. In determining fair market value, the actual price paid for the gift will be given strong consideration. It is recognized, however, that in many instances, e.g., the giving of handmade items, no purchase price will have been paid.
- (b) When multiple items, each individually worth less than \$100 but in the aggregate worth more than \$100, are simultaneously offered by a donor to a public servant, the gift being offered is deemed to be the aggregate of all the items. Food and beverages offered to a public servant's spouse do not count toward the \$100 aggregate.

(EXAMPLE: If a public servant is given eight (8) tickets worth \$20/each, the value of the gift to the public servant would be \$160.)
- (c) The value of an item shall be considered to be less than \$100 if the public servant reimburses the person from whom the item was received any amount over \$100

- and the reimbursement occurs within ten (10) days from the date the item was received.
- (d) Tickets to sporting events and shows are valued at their face price except for tickets that the donor obtains pursuant to a lease (such as tickets for an “executive suite” or a “skybox”). The value of a ticket obtained pursuant to a lease shall be the price of the highest individually priced ticket for the event. The fair market value of benefits accepted by the public servant from the donor in connection with the event, including food and beverages, must be added to the value of a ticket to determine the overall value of the gift.
- (EXAMPLE: If a public servant is given two (2) skybox tickets to an event, and takes a guest, the value of the gift to the public servant is twice the price of the highest individually priced ticket for the event plus the value of any food or beverages consumed by the public servant, but not his or her guest.)
- (e) Transportation on a private aircraft shall be valued by dividing the total cost of the aircraft trip by the number of passengers (excluding crew). The total cost of the aircraft trip includes the expenses for the crew on board the plane (and for the crew to stay overnight, if applicable), the cost of fuel to operate the aircraft, repairs to the aircraft, depreciation, landing fees, and any applicable catering. Normally, these costs are expressed in terms of a per hour operational expense. In other words, what it actually costs to operate the particular aircraft on an hourly basis.
- (EXAMPLE: A corporation owns a jet which it has determined costs \$900/hour to operate, given historical expenses for crew, fuel, repairs, depreciation, fees and catering. The corporation takes six (6) passengers (excluding crew) on a trip with actual flight time of four (4) hours. The total cost of the aircraft trip is computed by multiplying \$900/hour times four (4) hours. This computation (\$3,600) is then divided by the number of passengers (6) which yields a value of \$600/per passenger.)
- (f) For purposes of these rules, the value of a ticket to a charitable event shall not include the tax deductible portion of the ticket.

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Appendix P

RULES ON CONFLICTS

ARKANSAS ETHICS COMMISSION

§ 400 Definitions

- (a) **Administrative action** – As used in these rules, the term “administrative action” means any decision on, or proposal, consideration, or making of any rule, ratemaking proceeding, or policy action by a governmental body. It does not include ministerial action.
- (b) **Business** – As used in these rules, the term “business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted.
- (c) **County government** – As used in these rules, the term “county government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county.
- (d) **Family** – As used in these rules, the term “family” means an individual’s spouse, children of that individual or his or her spouse, or brothers, sisters, or parents of the individual or his or her spouse.
- (e) **Governmental body** – As used in these rules, the term “governmental body” means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the state, municipality, county, school district, improvement district, or any political district or subdivision thereof.
- (f) **Income or compensation** – As used in these rules, the term “income or compensation” means any money or anything of value received or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof. It includes a payment made under obligation for services or other value received. The term “compensation” does not include anything of value presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee’s contribution to education.
- (g) **Legislative action** – As used in these rules, the term “legislative action” means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or non-action on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a committee or house of the General Assembly, a quorum court, or a city council or board of directors of a municipality.
- (h) **Legislator** – As used in these rules, the term “legislator” means any person who is a member of:
1. The General Assembly;
 2. A quorum court of any county;
 3. The city council or board of directors of any municipality; or
 4. A member of a school district board of directors.
- (i) **Lobbying** – As used in these rules, the term “lobbying” means communicating

directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action.

- (j) **Municipal government** – As used in these rules, the term “municipal government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality.
- (k) **Person** – As used in these rules, the term “person” means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.
- (l) **Public appointee** – As used in these rules, the term “public appointee” means an individual who is appointed to a governmental body. It does not include an individual appointed to an elective office.
- (m) **Public employee** – As used in these rules, the term “public employee” means an individual who is employed by a governmental body or who is appointed to serve a governmental body. It does not include public officials or public appointees.
- (n) **Public official** – (1) As used in these rules, the term “public official” means a person holding an elective office of any governmental body, whether elected or appointed to the office
(2) “Public official” includes without limitation:
 - (A) A person holding an elective office of any governmental body, whether elected or appointed to the office, during the time period between the date he or she is elected or appointed and the date he or she takes office; and
 - (B) A member of a school district board of directors.
- (o) **Public servant** – As used in these rules, the term “public servant” means all public officials, public employees, and public appointees.
- (p) **Special privileges or exemption** – As used in these rules, the term “special privileges or exemption” means a particular benefit or advantage unfairly extended to a person beyond the common advantages of others or the unjustified release of a person from a duty or obligation required of others.
- (q) **State government** – As used in these rules, the term “state government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.
- (r) **Unwarranted privileges or exemptions** – As used in these rules, the term “unwarranted privileges or exemptions” means a particular benefit or advantage unfairly extended to a person beyond the common advantages of others or the unjustified release of a person from a duty or obligation required of others.

§ 401 Confidential Information

- (a)(1) No public servant shall accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position which is declared by law or rule to be confidential.
- (2) No public servant shall disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit.
- (b) No public servant shall purposely use or disclose to any other person or entity confidential government information acquired by him or her in the course of and by reason of the public servant’s official duties, to secure anything of material

value or benefit for himself or herself or his or her family.

- (c) No member of a state board or commission or board member of an entity receiving state funds shall disclose confidential information acquired by him or her in the course of the member's official duties or use such information to further his or her personal interests.

§ 402 Fair Treatment

- (a) No public servant shall use or attempt to use his or her official position to secure special privileges or exemption for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that is not available to others except as may be otherwise provided by law.
- (b) No member of a state board or commission or board member of an entity receiving state funds shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

§ 403 Decision Making

- (a)(1) No member of a state board or commission or board member of an entity receiving state funds shall participate in, vote on, influence, or attempt to influence an official decision if the member has a pecuniary interest in the matter under consideration by the board, commission, or entity.
- (2) A member of a state board or commission or board member of an entity receiving state funds may participate in, vote on, influence, or attempt to influence an official decision if the only pecuniary interest that may accrue to the member is incidental to his or her position or accrues to him or her as a member of a profession, occupation, or large class to no greater extent than the pecuniary interest could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.
- (b) No member of a state board or commission or board member of an entity receiving state funds shall participate in any discussion or vote on a rule or regulation that exclusively benefits the member.

§ 404 Appearances

- (a) No legislator shall appear for compensation on behalf of another person, firm, corporation, or entity before any entity of:
 - (1) State government, if the legislator is a member of the General Assembly;
 - (2) The legislator's county government, if the legislator is a member of a quorum court;
 - (3) The legislator's municipal government, if the legislator is a member of a city council or board of directors of a municipality; or
 - (4) The legislator's school district board of directors, if the legislator is a member of a school district board of directors.
- (b) This section shall not:
 - (1) Apply to any judicial proceeding or to any hearing or proceeding which is adversarial in nature or character;
 - (2) Apply to any hearing or proceeding on which a record is made by the entity of state government, entity of county government, entity of municipal government, or school district board of directors;
 - (3) Apply to an appearance which is a matter of public record;
 - (4) Apply to ministerial actions; or
 - (5) Preclude a legislator from acting on behalf of a constituent to determine

the status of a matter without accepting compensation.

- (c) An appearance which is a matter of public record as provided in subdivision (b)(3) of this section may be made by:
 - (1)(A) Filing a written statement within twenty-four (24) hours with the agency head of the entity of state government, entity of county government, entity of municipal government, or school district before which an appearance is sought.
 - (B) In the event that a written statement cannot be provided to the agency head prior to the meeting, telephonic notice must be given the agency head or his office; or
 - (2) Filing a quarterly statement with the agency head of the entity of state government before which an appearance is sought.
- (d)(1) A statement filed under subsection (c) of this section shall identify the client on behalf of whom the appearance is made and contain a general statement of the action sought from the governmental body.
 - (2)(A) The statements shall be retained by the agency head and shall be a matter of public record.
 - (B) If the agency head determines that the release of the client's name would be an unwarranted invasion of individual privacy or would give advantage to competitors for bidding, the agency head may withhold the name until appropriate.
- (e) No member of the General Assembly shall receive any income or compensation as defined in §400(f) other than income and benefits from the governmental body to which he or she is duly entitled, for lobbying other members of the General Assembly by communicating directly or soliciting others to communicate with any other member with the purpose of influencing legislative action by the General Assembly.

§ 405 Reporting

- (a) A legislator who is required to take an action in the discharge of his or her official duties that may affect his or her financial interest or cause financial benefit or detriment to him, or a business in which he or she is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall:
 - (1) Prepare a written statement describing the matter requiring action and stating the potential conflict; and
 - (2)(A) Deliver a copy of the statement to the appropriate official to be filed with the statement of financial interest.
 - (B) The copy of the statement may be delivered in person by the public official, by mail, or by a person authorized by the public official to deliver the copy.
- (b) The obligation to report a potential conflict of interest under this section arises as soon as the legislator is aware of the conflict.
- (c) If the statement of financial interest filed by the legislator makes the conflict readily apparent, then no report need be filed.

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Appendix Q

"UNWRITTEN" RESPONSIBILITIES OF MEMBERS

The basic or unwritten duties of a member are as follows:

- (1) To attend meetings, be on time and stay until end of meetings to acquire experience, talent and attributes of leadership, for the good of the order and the community. Meetings of organizations offer tremendous educational and social advantages.
- (2) To actively participate in the proceedings and deliberations acquiring proficiency in the rules of parliamentary practice and in debate, decorum and discipline. Follow the rules of debate, make a point concisely, attack issues, not people.
- (3) To accept the final decision of the majority without animosity - just as one accepts the will of the people in a political election or the final decision of a judge, umpire or referee. One must demonstrate sportsmanship in the forum of a deliberative body as much as in the field of sports.
- (4) To obey the rules of the organization and respect the rights of others in the organization to help maintain the organization's dignity and integrity.
- (5) To promote the organization's reputation and what is overall good for the organization and the public and not for the special interests of a few.
- (6) Be ready to talk knowledgeably and intelligently on all meeting agenda items.
- (7) Be attentive and open-minded.
- (8) Treat everyone with courtesy and work with others in a cooperative fashion.
- (9) Speak openly, but allow everyone to have their turn to speak.
- (10) Participate in committees and respect the Chair's rulings in the committee meetings.

Duty of Chair to know parliamentary law. It is the duty of the Chair to know the rules of parliamentary law and basic parliamentary practice. There is nothing more time consuming than one who is devoid of parliamentary law trying to preside over an assembly; the more intelligent the assembly, the more trouble for the Chair.

Taking the initiative and exercising leadership. Those who aspire to leadership and who would exert power and influence in organizations should not only know the rules of parliamentary procedure, but should also train themselves to take the initiative in proposing appropriate action to meet situations as they arise. Further a member may find themselves having to temporarily preside of a meeting unexpectedly! Better to be prepared than learn in a crash course setting.

New members with no previous experience in organizations and who may be shy can acquire proficiency and confidence in three easy ways: (1) by attending meetings regularly; (2) by merely, at first, for a meeting or two, seconding motions - sensible ones; and (3) by rising and discussing, very briefly at first, only questions or motions which appear certain to pass or be defeated.

After you have thus acquired poise and the technique of debate, you can then enter into plenary participation. Remember: practice makes perfect and those speakers who appear to debate questions with amazing eloquence and persuasiveness have acquired that skill mostly through just such practice. You can do the same. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 1*

Appendix R

WHAT ARE THE 11 DUTIES OF THE CHAIR?

Under Robert's Rules of Order, the chair of a meeting has 11 duties, listed below.

These duties are listed in Robert's Rules of Order Newly Revised, 12th edition, the only official and current version of Robert's Rules, in section 47:7.

THE MEETING may be that of a city council, a nonprofit board, a professional society, a homeowners' association, a fraternal order or any group that is organized as a "voluntary association" (that is, not a hierarchical organization such as the workplace with its "boss.")

THE CHAIR (the person running the meeting) may be called Chair, President, Presiding Officer, or something else.

Note that these duties are all about procedure-running the meeting well. The duties **DO**

NOT INCLUDE lecturing or criticizing group members to make them vote the way you want, trying to convince people that you are right and they are wrong, or exercising your leadership position to determine the outcome of the vote. During the meeting, you are not responsible for the decision the group makes. You are the facilitator and the servant of the group.

It is important to note that in large groups, the Chair does not make motions or debate them. Robert has special rules for small boards. In small boards, unless state law, regulations, or the group's bylaws say otherwise, the Chair may debate, make motions and vote. Even so, the Chair must exercise restraint. In order to achieve this, the chair should speak and vote last.

OUTSIDE THE MEETING the Chair has other duties which may involve giving orders, making decisions, managing affairs and setting a direction. We encourage all chairs of nonprofit boards and leaders in local government to keep this distinction clear. Outside the meeting, exercise all your proper powers. During the meeting, be the servant of the group, and always remember that you are not responsible for the decision the group makes. The group is responsible, and the group is the final authority.

Open meeting	To open the meeting at the appointed time by taking the Chair (sitting in the seat reserved for the presiding officer), after finding that a quorum is present, and calling the meeting to order.
Announce next activity	To announce in proper sequence the next activity before the group in accordance with the prescribed order of business.
Recognize members	To recognize group members who are entitled to the floor (who have the exclusive right to be heard at that time).
State questions and put to vote	To state and put to vote all questions that legitimately come before the group as motions or that otherwise arise in the course of proceedings, and to announce the result of each vote; or, if a motion that is not in order is made, to rule it out of order.
Refuse to recognize dilatory motions	To protect the group from obviously dilatory (time-wasting or obstructive) motions by refusing to recognize them.
Enforce order and decorum	To enforce the rules relating to debate and those relating to order and decorum within the group.
Expedite business	To expedite business in every way compatible with the rights of group members and the group rules.
Decide all questions of order	To decide all questions of order subject to appeal-unless, when in doubt, the chair prefers initially to submit such a question to the group for decision.
Respond to inquiries	To respond to inquiries of group members relating to parliamentary procedure or factual information bearing on the business of the group.
Authenticate documents	To authenticate by signature, when necessary, all acts, orders and proceedings of the group.
Close meeting	To declare the meeting adjourned when the group so votes or-where applicable-at the time prescribed in the agenda, or at any time in the event of a sudden emergency affecting the safety of those present.

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Appendix S

FOLLOW FOUR FUNDAMENTAL GUIDELINES FOR SUCCESSFUL MEETINGS

There are four (4) fundamental guidelines that will create successful meetings. They are easy to say but take some effort to apply, since prevailing culture is often very different. Run your meetings according to these guidelines so your meetings and your organization will flourish.

I. The person running the meeting is the servant of the group, and the group is the final authority.

We are so used to our work situation, where the "boss" is in charge of the "employees," that we often bring the same habits of mind to meetings of nonprofit boards, city councils, and other volunteer organizations. But in a board of directors or a council, all the members have equal standing. They are peers, and the leader is one among equals.

The Chair has special duties to RUN the meeting, but does not determine the OUTCOME of the meeting. It is the group that must decide what it wishes to do. It is the chair's duty to assist the group in this task. And the group has the ability to overturn a decision or ruling made by the chair. Read about Point of Order and Appeal on our website to learn how this is done.

II. All members have equal rights, privileges and obligations. To ensure this, no one may speak a second time until everyone who wishes to do so has spoken once.

Every member of a board has an equal right to speak. In practice, however, boards often discuss their affairs in conversational mode. And in conversations, dominant people tend to dominate, and agreeable people tend to let them.

This often leads to a few people dominating the discussion, which is not fair and can lead to poor outcomes. Your quiet, introverted members have important insights that need to be heard.

If you adopt and apply the rule that no one may speak a second time until everyone who wishes to do so has spoken once, you will find that your meetings take on an entirely different nature-for the better!

III. Courtesy and respect are required at all times.

In these difficult times, people can be loud, rude and disorderly at meetings. Your chair and your members must insist on courtesy and respect at all times. These are not frills, but vital to the democratic process. No personal remarks, no insulting language, no attacks, no interrupting, no sidebar conversations, no disrespectful body language. If this happens, gently but firmly put a stop to it.

IV. One thing at a time.

When a group is discussing a certain item, it must stick with that item, or make a conscious decision to set it aside to deal with something else. You can't slip from one topic to another, but must be deliberate in how and when you address each issue. Create a thoughtful agenda, time each item, and follow the agenda with flexible care.

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Appendix T

LANGUAGE TIPS FOR MEETING MANAGEMENT

SITUATION	CHAIR CAN SAY
Call to order	This meeting of the [name of organization] is called to order.
Unanimous consent	Without objection... If there is no objection...
To begin discussion	It has been moved and seconded that... Is there any discussion?
If there is no second	Since there is no second, the motion will not be considered.
To end discussion	Is there any further discussion? or Are you ready to vote?
Process Point of Order	<ol style="list-style-type: none"> 1. Member says, "Point of Order." 2. Chair says, "State your point." 3. Member explains issue. 4. Chair says, "The point is well taken," or "The point is not well taken."
When someone says "Point of Order" but can't explain what they mean	What rule has been broken?
Process Point of Information	<ol style="list-style-type: none"> 1. Member says, "Point of Information." 2. Chair replies, "State your question." 3. Member states question. 4. Chair can respond three ways: <ul style="list-style-type: none"> ▶ Respond yourself. ▶ Ask someone else to respond. ▶ Say, "We'll get back to you later."
When "Point of Information" is misused to give information	What information does the member need in order to decide how to vote?
If someone is dominating the meeting	No one may speak a second time until everyone who wishes to do so has spoken once. Does anyone else wish to speak on this topic?
When comments are not germane (relevant)	Members will kindly keep their remarks strictly to the topic under discussion.
If people are whispering	Members will kindly refrain from sidebar conversations.
Adjourning the meeting	There being no further business, this meeting is adjourned.

- Strive to be firm, fair and friendly.
- Use the "third person" to keep things neutral and lessen conflict.
- Give up on the word but. Always say and.
- Say kindly, not please, which sounds like pleading.
- Say very well and move on.
- Beware of "negativity bias." No frowning, no sarcasm, no eye-rolling.
- Keep an emotional connection with the members by emphasizing what we have in common.

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Appendix U

RIGHTS AND RESPONSIBILITIES OF THE MEMBER

Please note that neither the list of member rights nor the list of member responsibilities is intended to be exhaustive. In addition, neither the rights nor the responsibilities are necessarily absolute in every instance. For example, the right to debate may be cut off or limited by motions for the Previous Question or to Limit Debate. And, while a member should not vote on a matter of direct personal interest, no member may be compelled to abstain on such a matter.

A MEMBER OF A DELIBERATIVE ASSEMBLY HAS THE RIGHT

1. to attend meetings.
2. to make motions.
3. to speak in debate.
4. to vote.
5. to abstain from voting.
6. to be given copies of the assembly's governing documents, including rules of procedure and standing rules.
7. to unilaterally modify or withdraw a motion the member has made before it has been stated by the Chair.
8. to speak first in debate on a motion the member has made.
9. to insist on the enforcement of the rules of order, through the raising of a Point of Order.
10. to require the assembly to adhere to its agenda, program, or order of business, by a Call for the Orders of the Day.
11. to require a Division of the Assembly if the member doubts the result of a voice vote.
12. to change his or her vote up to the time the results are announced.
13. to not have allegations against the member's good name made except by charges brought on reasonable ground.
14. to require separate consideration of two or more unrelated questions offered in a single motion.
15. to make a Parliamentary Inquiry or a Request for Information (also called Point of Information).

A MEMBER OF A DELIBERATIVE ASSEMBLY HAS THE RESPONSIBILITY

16. to become familiar with the assembly's procedural and standing rules.
17. to obtain the floor before making a motion or speaking in debate.
18. to refrain from criticizing a ruling of the Chair unless the member has appealed from the ruling.
19. to refrain from debating a matter that is not pending.
20. to confine remarks to the merits of the pending question.
21. to refrain from attacking or questioning the motives of other members.
22. to address all remarks to or through the chair.
23. to refrain from referring to members by name.
24. to refrain from speaking adversely on a prior action not pending.
25. to refrain from speaking against the member's own motion.
26. to read from reports, quotations, or other documents only with permission of the assembly.
27. to be seated during any interruption by the chair.
28. to refrain from disturbing the assembly.
29. to refrain from explaining the member's vote during voting.
30. to abstain from voting on a matter of direct personal interest.

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Appendix V

SUCCESSFUL STAFF INTERACTION IN LOCAL GOVERNMENT MEETINGS

Staff interaction in local government meetings can be effective or disastrous. Here are a few suggestions on how to structure successful staff interaction.

NOT ENOUGH STAFF INTERACTION

Sometimes staff can be too cautious at their council or committee meetings. They see themselves in a subordinate position and feel that their comments are welcome only when requested.

We believe that in a healthy jurisdiction, staff members are empowered to speak up on occasion. For example:

- Elected or appointed officials are about to do something illegal.
- Council Members are not aware of information relevant to their discussion, or past actions that have an immediate bearing on the course of action they are considering.
- Council Members are breaking their own guidelines by speaking directly to each other instead of addressing remarks to the Chair.

You can make this permission formal by adopting a Special Rule of Order that authorizes staff to make a Point of Order. Alternately, you can have an informal understanding with your staff that they should speak up in these circumstances.

In any case, it is critical that the Chair and the Council Members display the emotional maturity to accept comments from staff, and not punish them for speaking up.

TOO MUCH STAFF INTERACTION

The opposite problem can happen too. Sometimes staff speak up whenever they wish, and argue with the Council Members as if they were on an equal footing. Staff must respect the fact that they support the local government officials but are not the decision-makers. This requires some delicacy on their part and a healthy humility about their role. Another problem can occur when a single Council Member has a whole series of questions for a staff member, and the two people engage in a back and forth conversation that basically hijacks the meeting. This should not happen.

HOW TO STRUCTURE STAFF INTERACTION?

Recommended structure for staff interaction:

1. Staff presents the proposed action in writing and explains it.
2. Members of the body offer any questions to the staff, with each person having the opportunity to ask one or two questions in turn, for as many rounds as are necessary.
3. Public comment is taken (if that is your process).
4. The motion is moved and seconded.
5. Council Members discuss the motion. During discussion, they may ask the Chair for permission to address a further question to a staff member if they feel the need.
6. This is the time to offer any amendments if desired.
7. After discussion, the council or committee votes on the motion.

ONE MORE POINT ABOUT STAFF INTERACTION

It's important to remember that the official/staff member relationship is an unequal and hierarchical one. Local government officials and staff members stand in a very different relationship to their leaders. An elected or appointed body is autonomous, within the limits of law and regulation. Staff members are employees, dependent on their employer, who is responsible for their performance.

It is crucial for officials and citizen volunteers to remember this distinction. They must respect the lines of authority and the employment conditions prevailing in their jurisdiction. Council and commission members must always speak with courtesy to staff, and not criticize or berate them in public. If they have concerns, they must raise them in the proper channels. For example, a Council Member with an issue might say to the Mayor, "Please set up a time to meet with me so we can follow up on this matter."

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Appendix W

LOST THE VOTE? DON'T SABOTAGE THE COUNCIL'S ACTION

In the past, there have been elected officials who was on the minority vote on an issued voted on and decided by the city Council, and then actively worked against the outcome. This amounts to trying to sabotage the council. It is wrong.

THE MAJORITY RULES

General Henry Martyn Robert, the original author of Robert's Rules of Order, expresses it this way:

“The great lesson for democracies to learn is for the majority to give to the minority a full, free opportunity to present their side of the case, and then for the minority, having failed to win a majority to their views, gracefully to submit and to recognize the action as that of the entire organization, and cheerfully to assist in carrying it out, until they can secure its repeal.”--- Quoted in Robert's Rules of Order Newly Revised, 12th edition, p. xlvii

This is a fundamental principle of our system of government. It is embedded in our common law heritage, and our entire society. Government and its administration cannot function optimally, cannot best serve the citizens, and cannot advance, if the very people who are elected to serve choose to pursue their own private views against the decision of the body they belong to. When elected officials "go rogue" and work against their organization's action, they are violating their fiduciary duties of loyalty and obedience. Even more, they are assaulting the foundation of our democracy.

For these reasons, we consistently tell officials: If you lost the vote, you have an obligation to accept the vote as the decision of your body. Your agreement to serve as a public official carries with it the duty to support the fundamental principle of our system of government. You may express your disagreement in public. However, you should not take a single step to undermine the decision, because that would harm the organization which you have a duty to serve.

IS SOMEBODY TRYING TO SABOTAGE THE COUNCIL?

If such a situation occurs, review the Rules of Procedure and this quotation from Robert's Rules of Order:

“An organization or assembly has the ultimate right to make and enforce its own rules, and to require that its members refrain from conduct injurious to the organization or its purposes.”--Robert's Rules of Order Newly Revised, 12th edition, 61:1

Once you are armed with the law and the rules, discuss the matter with the independent-minded member. They may need help understanding the issue. Explain what is wrong with their attempt at sabotage, and show the importance of allowing the body's action to stand. If that doesn't work, it may be necessary to bring it up at a public meeting of your council or board. And if public shaming fails to have any effect, you may have to sanction the member.

BEING ELECTED LIMITS ACTIONS YOU MAY TAKE

American individualism is a great thing, but when you accept election to a local governmental body, you give up some of your First Amendment rights and some of your freedom of action. You agree to put the welfare of the organization above your own

interest. You agree to compromise. You agree to follow the rules your body has adopted. And you agree that the entire body chooses its course of action, not any one self-interested individual. It is not easy! But it's the American way.

EXAMPLES OF ATTEMPTS TO SABOTAGE

Here are instances of attempted sabotage:

- A planning commissioner publishes letters opposing the decisions of the commission and complaining about the members.
- A City Council takes a position on the status of the wetlands in response to a request from the state department of ecology. Three minority members send a letter to the department saying that they disagree with the city's position.
- The City Council approves a city sales tax. A member who disagrees publishes an Op-Ed in the local newspaper urging citizens to vote against the sales tax.

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Abide by the final result. Defend or oppose motions and questions with all your skill and eloquence, but always abide by the final result thus preserving harmony and the unity of the members and safeguarding the organization's dignity and integrity. Show the same spirit and good sportsmanship at meetings as in sports and political elections. *Demeter's Manual of Parliamentary Law and Procedure, Ch. 3, Page 26.*

Appendix X

WHEN PUBLIC PRESSURE IS INTENSE

There are always tough times for local non-partisan government bodies. Here are some thoughts about what can be done in the face of intense public pressure.

Listen To Your Constituents, While Accepting Your Own Responsibility

Of course, you will listen carefully to what your constituents are telling you. Be willing to hear views that differ from your own. Remember, however, that elected office gives you the responsibility of voting based on your own best judgment and according to law, not solely in response to crowd opinion.

Ensure Fair Discussion at Meetings

It is vital to hold free and fair discussion at your meetings. Be sure that every Council Member has an equal chance to speak, and that the minority is not marginalized in discussion. It can be hard, when passions run high, to maintain equal opportunity for all to speak, but you must. The Chair needs to keep a cool head, setting aside the desire to have their own opinion prevail in order to focus on facilitating the discussion.

Manage Public Comment Effectively

When people are upset, public comment sessions can be challenging. Always remember that the purpose of public comment is to hear the views of your community, not to get into dialogue with them.

When an issue is very inflamed, the regular public comment period may be insufficient. You may want to schedule an additional public forum on the subject, in order to preserve the board's time to work at its regular tasks.

Once a Decision Is Made, Stand by It

It's a fundamental principle of democracy that the decision of the majority, voting at a properly called meeting, is a decision of the body as a whole. If you voted in the minority, be prepared to say, "I voted against this decision, I gave it my best effort in discussion, and I support it as the decision of the Council."

Prepare "Talking Points" For Your Own Use, and Repeat Them

"Talking Points" listing the key items are a good tool to be used in a discussion. A Council Member or Mayor can do this for a meeting. Writing them down gives strength to remember them. Sometimes they will need to be repeated, sometimes often, to different people, without getting irritated or annoyed at having to say the same thing over and over again.

Be Prepared To Revisit a Decision If Warranted

As circumstances change, if the Council needs to revisit a decision, be prepared to do that.

Show Solidarity with Colleagues, Even If You Disagree

Council Members need to confine their discussion to issues, and show solidarity with their colleagues. During the meeting, show respect in your remarks, and especially in your body language. Outside the meeting, don't badmouth other Council Members. Focus on the decisions, not on the people who made them.

Be Careful About Posting on Social Media

Social media can become a sinkhole, commanding more and more time and effort for little return. Consider carefully what you post and what you respond to. And of course, be sure that you distinguish between your personal views, and speaking as a representative of the board on which you serve. Even when you do this, the two are often confused in the public's mind. It's best just to keep it positive and factual.

Keep Clear And Keep Connected

In all communications, two things that are easy to do separately, but hard to achieve all at once.

- Be clear about what you think. A leader is able to articulate the challenges that went into a decision, and the rationale for their own vote.
- Keep connected with the other person. It's easy to become defensive or impatient when someone is attacking you. Do your best to keep rooted in your own integrity, and to acknowledge that the other person is worthy of your respect, whether or not you agree. One useful tip is to avoid using the word "but." When you say "but," you cut yourself off from your opponent. Better to say, "Yes, you are raising very serious issues, and I would also like to mention..." Always thank someone who gives you feedback.

Absorb The Pain And Don't Pass It On

It's not easy to be the target of public pressure. You will serve your community if you are willing to absorb the pain, the hurt feelings, the realization that your good intentions are misunderstood, and let the pain stop with you. Don't lash out or retaliate when you feel hurt. Don't turn in on yourself. Just acknowledge that times are tough, your local government is doing the best that it can, you are doing the best that you can, and recommit to serving your community, even in these challenging times. Your commitment to something bigger than the individuals caught in the current moment, to the greater good, will sustain you even in the worst of conditions.

Sample Talking Points

- The Council has given lengthy and thoughtful consideration to the question of whether to do X.
- Relying on the information we could obtain at the time, the Council decided to do X.
- We understand that this poses a serious hardship to everyone in the community and that during the process the City will make every attempt to make the transition as smooth as possible.
- Speaking personally, I would have liked us to X. After giving this my best consideration, I voted against this decision. Since the majority decided it this way, I support the decision of the Council.
- Thank you very much for taking the time to share your thoughts on this challenging issue.

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Appendix Y

STATEMENT OF FINANCIAL INTEREST

State/District officials file with:
John Thurston, Secretary of State
State Capitol, Room 026
Little Rock, AR 72201
Phone (501) 682-5070
Fax (501) 682-3548

Calendar year covered _____
(Note: Filing covers the previous calendar year)

For assistance in completing
this form contact:
Arkansas Ethics Commission
Phone (501) 324-9600
Toll Free (800) 422-7773

Is this an amendment? Yes No

Please provide complete information. If the information requested in a particular section does not apply to you, indicate such by noting "Not Applicable" in that section. Do not leave any part of this form blank. If additional space is needed, you may attach the information to this document. Do not file this form with the Arkansas Ethics Commission.

SECTION 1- NAME AND ADDRESS

Name _____
(Last) (First) (Middle)
Address _____
(Street or P.O. Box Number) (City) (State) (Zip Code)
Phone _____
Spouse's name _____
(Last) (First) (Middle)
All names under which you and/or your spouse do business: _____

SECTION 2- REASON FOR FILING

- Public Official _____
(office held)
- Candidate _____
(office sought)
- District Judge _____
(name of district)
- City Attorney _____
(name of city)
- State Government: Agency Head/Department Director/Division Director _____
(name of agency/department/division)
- Chief of Staff or Chief Deputy _____
(name of Constitutional Officer, Senate, or House of Representatives)
- Public appointee to State Board or Commission _____
(name of board/commission)
- School Board member _____
(name of school district)
- Candidate for school board _____
(name of school district)
- Public or Charter School Superintendent _____
(name of school district/school)
- Executive Director of Education Service Cooperative _____
(name of cooperative)
- Advertising and Promotion Commission member _____
(name of advertising and promotion commission)
- Research Park Authority Board member under A.C.A. § 14-144-201 et seq. _____
(name of research park authority board)

Ark. Code Ann. § 21-8-403 provides that, upon conviction, any person who violates any provision of subchapter 4, 6, 7, or 8 of chapter 8, Title 21 of the Arkansas Code is guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.
Revised 12/2017

SECTION 2- REASON FOR FILING (continued)

- Appointee to one of the following municipal, county or regional boards or commissions (list name of board or commission):
- Planning board or commission _____
 - Airport board or commission _____
 - Water or Sewer board or commission _____
 - Utility board or commission _____
 - Civil Service commission _____

SECTION 3- SOURCE OF INCOME

List each employer and/or each other source of income from which you, your spouse, or any other person for the use or benefit of you or your spouse receives gross income amounting to more than \$1,000. (You are not required to disclose the individual items of income that constitute a portion of the gross income of the business or profession from which you or you spouse derives income. For example: accountants, attorneys, farmers, contractors, etc. do not have to list their individual clients.) If you receive gross income exceeding \$1,000 from at least one source, the answer N/A is not correct.

- a) Check appropriate box: More than \$1,000 More than \$12,500

_____ (name of employer or source of income)

_____ (address)

_____ (name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____

- b) Check appropriate box: More than \$1,000 More than \$12,500

_____ (name of employer or source of income)

_____ (address)

_____ (name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____

- c) Check appropriate box: More than \$1,000 More than \$12,500

_____ (name of employer or source of income)

_____ (address)

_____ (name under which income received)

Provide a brief description of the nature of the services for which the compensation was received _____

Ark. Code Ann. § 21-8-403 provides that, upon conviction, any person who violates any provision of subchapter 4, 6, 7, or 8 of chapter 8, Title 21 of the Arkansas Code is guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.
Revised 12/2017

SECTION 5- OFFICE OR DIRECTORSHIP

List every office or directorship held by you or your spouse in any business, corporation, firm, or enterprise subject to jurisdiction of a regulatory agency of this State, or of any of its political subdivisions.

a) _____
(name of business, corporation, firm, or enterprise)

(address)

(office or directorship held)

(name of office holder)

b) _____
(name of business, corporation, firm, or enterprise)

(address)

(office or directorship held)

(name of office holder)

SECTION 6- CREDITORS

List each creditor to whom the value of five thousand dollars (\$5,000) or more was personally owed or personally obligated and is still outstanding. (This does not include debts owed to members of your family or loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit.)

a) _____
(name of creditor)

(address of creditor)

b) _____
(name of creditor)

(address of creditor)

c) _____
(name of creditor)

(address of creditor)

SECTION 7- PAST-DUE AMOUNTS OWED TO GOVERNMENT

List the name and address of each governmental body to which you are legally obligated to pay a past-due amount and a description of the nature of the amount of the obligation.

a) _____
(name of governmental body) (address of governmental body)

(amount owed) (nature of the obligation)

b) _____
(name of governmental body) (address of governmental body)

(amount owed) (nature of the obligation)

Ark. Code Ann. § 21-8-403 provides that, upon conviction, any person who violates any provision of subchapter 4, 6, 7, or 8 of chapter 8, Title 21 of the Arkansas Code is guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.
Revised 12/2017

SECTION 10- AWARDS

If you are an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college, the law requires you to disclose each monetary or other award over one hundred dollars (\$100) which you have received in recognition of your contributions to education. The information disclosed with respect to each such award should include the source, date, description, and a reasonable estimate of the fair market value.

a) _____
(description of award)

_____ (date) _____ (fair market value)

_____ (source of award)

b) _____
(description of award)

_____ (date) _____ (fair market value)

_____ (source of award)

c) _____
(description of award)

_____ (date) _____ (fair market value)

_____ (source of award)

d) _____
(description of award)

_____ (date) _____ (fair market value)

_____ (source of award)

SECTION 11- NONGOVERNMENTAL SOURCES OF PAYMENT

List each nongovernmental source of payment of your expenses for food, lodging, or travel which bears a relationship to your office when you appear in your official capacity when the expenses incurred exceed \$150.

a) _____
(name of person or organization paying expense)

_____ (business address)

_____ (date of expense) \$ _____ (amount of expense)

_____ (nature of expenditure)

b) _____
(name of person or organization paying expense)

_____ (business address)

_____ (date of expense) \$ _____ (amount of expense)

_____ (nature of expenditure)

Ark. Code Ann. § 21-8-403 provides that, upon conviction, any person who violates any provision of subchapter 4, 6, 7, or 8 of chapter 8, Title 21 of the Arkansas Code is guilty of a Class A misdemeanor. The culpable mental state required shall be a purposeful violation.
Revised 12/2017

Appendix Z

Council Meeting Schedule for 2026

** January 13, 2026	Organizational Meeting 5:00 p.m., Personnel at 5:00 p.m., Finance 5:30 p.m., and City Council Agenda Prep after Finance
* January 22, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
February 10, 2026	Finance and Agenda Prep 5:30 p.m.
February 19, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
March 10, 2026	Finance and Agenda Prep 5:30 p.m.
March 19, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
** April 7, 2026	Personnel at 5:00 p.m., Finance 5:30 p.m., and City Council Agenda Prep following Finance
April 16, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
** May 5, 2026	Finance and Agenda Prep 5:30 p.m.
May 21, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
June 16, 2026	Finance and Agenda Prep 5:30 p.m.
* June 25, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
** July 7, 2026	Finance and Agenda Prep 5:30 p.m.
July 16, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
August 11, 2026	Personnel at 5:00 p.m., Finance 5:30 p.m., and City Council Agenda Prep following Finance
August 20, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
September 8, 2026	Finance and Agenda Prep 5:30 p.m.
September 17, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
** October 6, 2026	Finance and Agenda Prep 5:30 p.m.
October 15, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
* November 10, 2026	Finance and Agenda Prep 5:30 p.m.
November 19, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.
December 8, 2026	Personnel at 5:00 p.m., Finance 5:30 p.m., and City Council Agenda Prep following Finance
December 17, 2026	Finance Meeting at 5:30 and City Council at 6:00 p.m.

****Highlighted dates are first Tuesday of that month due.**

***Moved to January 22 b/c in conflict with Arkansas Municipal League Convention**

***Moved to June 25 b/c holiday and in conflict with Arkansas Municipal League Convention**

APPENDIX AA

STATE LAWS AFFECTING PUBLIC SERVANTS

A.C.A. §14-42-107 - Interest in offices or contracts prohibited

(a)(1) A council member or elected official of a municipal corporation, during the term for which he or she has been elected or one (1) year thereafter, shall not be appointed to any municipal office that was created or the emoluments of which have been increased during the time for which he or she has been elected except to fill a vacancy in the office of mayor, council member, clerk, clerk-treasurer, recorder, or recorder-treasurer.

(2) A council member shall not be appointed to any municipal office, except in cases provided for in this subtitle, during the time for which he or she may have been elected.

(b)(1) A council member, official, or municipal employee shall not be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

(2) The prohibition prescribed in this subsection does not apply to contracts for furnishing supplies, equipment, or services to be performed for a municipality by a corporation in which no council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not council members.

A.C.A §21-8-304 - Prohibited activities

(a) No public servant shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that are not available to others except as may be otherwise provided by law.

(b) No public servant shall accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position that is declared by law or rule to be confidential.

(c) No public servant shall disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit.

A.C.A. §21-8-801 - Prohibited acts generally

(a) No public servant shall:

(1) Receive a gift or compensation as defined in § 21-8-401 *et seq.*, other than income and benefits from the governmental body to which he or she is duly entitled, for the performance of the duties and responsibilities of his or her office or position; or

(2) Purposely use or disclose to any other person or entity confidential government information acquired by him or her in the course of and by reason of the public servant's official duties, to secure anything of material value or benefit for himself or herself or his or her family.

APPENDIX BB
CITY OF RUSSELLVILLE
2026 HOLIDAY SCHEDULE

January 1, Thursday	New Year's Day
January 19, Monday	Dr. Martin Luther King Jr.'s Birthday
February 16, Monday	President's Day
May 25, Monday	Memorial Day
June 19, Thursday	Juneteenth
July 3, Friday (Observed)	Independence Day
September 7, Monday	Labor Day
November 11, Wednesday	Veterans Day
November 26, Thursday	Thanksgiving
November 27, Friday	Day After Thanksgiving
December 24, Thursday	Christmas Eve
December 25, Friday	Christmas Day
Employee's Birthday	Birthday Month

APPENDIX CC

2026 DEPARTMENT HEAD REPORTS CITY COUNCIL MEETINGS

January	None
February	Airport
March	Animal Control
April	Planning & Development
May	Public Works
June	Fire Department
July	Human Resources
August	IT Department
September	Police Department
October	City Corporation
November	Parks & Rec
December	None