

Legistar ID No.: 2017-0730

AGENDA REQUEST FORM

FOR: Council Meeting of January 2, 2018

FROM: City Attorney Kit Williams

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A RESOLUTION TO ADOPT THE RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE CITY COUNCIL FOR 2018

APPROVED FOR AGENDA:



City Attorney Kit Williams

December 7, 2017

Date



DEPARTMENTAL CORRESPONDENCE



OFFICE OF THE CITY ATTORNEY

Kit Williams City Attorney

Blake Pennington Assistant City Attorney

Rhonda Lynch Paralegal

TO: Mayor Jordan City Council

CC: Sondra Smith, City Clerk Don Marr, Chief of Staff

FROM: Kit Williams, City Attorney

[Handwritten signature of Kit Williams]

DATE: December 8, 2017

RE: Rules of Order and Procedure

The City Council has recently begun readopting the Rules of Order and Procedure of the Fayetteville City Council every year as recommended by the Arkansas Municipal League. My office has drafted the appropriate Resolution to do so again on January 2, 2018.

Reading through the Rules, I noticed some rules that need to be amended. The first is E.1.a. Standing City Council Committees. This was written and approved prior to the ad hoc creation of the Equipment Committee. I believe that the Equipment Committee should be formally recognized and included within the list of the Standing City Council Committees and so have amended that subsection to add the Equipment Committee.

I was surprised to find on page 11 of the Rules, a section on Appointment of New City Council Member. This section must have been drafted before the Legislature changed the law and provided the requirements and options the City Council now must follow pursuant to A.C.A. § 14-43-411. State law always trumps any conflicting local rule of procedure so Appointment of New City Council Member should be changed to Vacancy in the Office of a City Council Member which should refer to the controlling state law.

City Clerk Sondra Smith noticed a reference to "the Code of Ethics of the International Mayor's Association" in F. 2. We could not find any such code, nor were we aware how or when this provision was included within your Rules of

Order and Procedure. I questioned Chief of Staff Don Marr who also could not find a real reference to this group or its code of ethics. While investigating, Don came upon a short, but comprehensive and understandable code of ethics that the State of Georgia had produced and which had been adopted by Atlanta and many other cities in Georgia. We liked its clarity and simplicity and so propose to include it within G. CODE OF ETHICS as the first subsection entitled General, rename the current first section Business transactions and renumber the remaining subsections.

I have made those four changes in the attached **Rules of Order and Procedure** for your consideration at your January 2, 2018 meeting. All other rules remain exactly the same as they are today.

RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE CITY COUNCIL

A. CITY COUNCIL MEETINGS

1. Regular Meetings

The City Council shall meet in regular session on the first and third Tuesday of each month at 5:30 P.M. When a holiday or general election occurs on any such Tuesday, the regular meeting shall be held on the following Thursday at the same hour unless otherwise provided for by motion. The regular meeting time may be rescheduled by the City Council in special circumstances, but when so done the change must be made far enough in advance to allow normal public notification.

2. Location

The place of City Council meetings shall be in the City Council Chambers in the City Hall unless another place has been previously set by the City Council.

3. Special Meetings

Special meetings may be called by three or more members of the City Council or by the Mayor. Notification of a special meeting, including specific items to be considered, shall be at least two hours prior to the meeting. Such notification shall be by personal service to each member or by telephone, specifying time and place of meeting.

4. Executive Session

An executive session may be requested by any member of the City Council or the Mayor. A majority vote by the City Council is required to convene in executive session. Executive sessions will be permitted only for the purpose of considering the employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.

5. Quorum

A majority of the City Council shall be necessary to constitute a quorum to do business at a City Council meeting. The concurring vote of a majority of those attending a meeting shall be sufficient to pass procedural motions except a Motion to Suspend the Rules which requires six affirmative votes. Ordinances and Resolutions require five affirmative votes to pass.

6. Public Notification

The City will go further than legally required in order to inform citizens of the items to be considered by the City Council. The means used may include press releases or advertisements in a local newspaper, special notice to citizens who have shown a direct interest in matters to be

considered, Government Channel announcements and presentation, and agenda copies available at City Council meetings.

7. **Presentation of Agenda Items at City Council Meetings**

a. **Agenda Items not Included Within the Tentative Agenda Packet.**

(1) **Staff Agenda Items.** If the City staff requests to “walk-on” an agenda item for the City Council Agenda during the City Council Agenda Session, the memo from the City staff shall begin with a clear and compelling reason why this proposed agenda item could not have been included within the Tentative Agenda and cannot wait for City Council consideration at a later City Council meeting. Any member of the City Council including the Mayor can then place this item on the Final Agenda.

(2) **Council Member Agenda Items.** Council Members should also strive to include any agenda item a Council Member wishes the City Council to consider within the Tentative Agenda. If that is not possible, the Council Member should explain during the Agenda Session why the proposed agenda item should be included in the Final Agenda rather than postponed to the next meeting. Any member of the City Council including the Mayor can then place this item on the Final Agenda.”

b. **Agenda Additions.** A new item which is requested to be added to the agenda at a City Council meeting should only be considered if it requires immediate City Council consideration and if the normal agenda setting process is not practical. The City Council may only place such new item on the City Council meeting’s agenda by suspending the rules by two-thirds vote. Such agenda addition shall be heard prior to the Consent Agenda.

c. **Consent Agenda.** Consent Agenda items shall be read by the Mayor and voted upon as a group without discussion by the City Council. If a Council Member wishes to comment upon or discuss a Consent Agenda item that item shall be removed and considered immediately after the Consent Agenda has been voted upon.

d. **Unfinished Business and New Business.**

(1) **Presentations by Staff and Applicants.** Agenda items at a City Council meeting shall be introduced by the Mayor and, if an ordinance, read by the City Attorney. City staff shall then present a report. An agenda applicant (city contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, but may be recalled by a Council Member later to answer questions. City staff, Council Members and applicants may use electronic visual aids in the City Council meeting as part of the presentation of the agenda item.

(2) **Public Comments.** Public comment at a City Council meeting shall be allowed for all members of the audience on all items of unfinished and new business and subjects of

public hearings. Speakers shall be limited to a maximum of (5) five minutes so that all other citizens desiring to speak on that agenda item or a later item will not be unnecessarily inconvenienced. By a majority vote of the Council Members present and voting, this time limitation may be altered for a specific agenda item.

A simple majority of the Council Members, present and voting, may authorize a representative of a Fayetteville citizens' group opposing the ordinance or resolution to present an electronic visual aid not to exceed five minutes, but no other electronic visual aid presentations will be allowed; however, the public may submit photos, petitions, etc. to be distributed to the City Council. If a member of the public wishes for the City Clerk to distribute materials to the City Council before its meeting, such materials should be supplied to the City Clerk's office no later than 9:00 A.M. on the day of the City Council meeting.

Any member of the public shall first state his or her name and address, followed by a concise statement of the person's position on the question under discussion. Repetitive comments should be avoided; this applies to comments made previously either to the City Council or to the Planning Commission when those Planning Commission minutes have been provided to the City Council. All remarks shall be addressed to the Mayor or the City Council as a whole and not to any particular member of the City Council. No person other than the Council Member and the person having the floor shall be permitted to enter into any discussions without permission of the Mayor. No questions shall be directed to a Council Member or city staff member except through the Mayor.

- e. **Courtesy and Respect.** All members of the public, all city staff and elected officials shall accord the utmost courtesy and respect to each other at all times. All shall refrain from rude or derogatory remarks, reflections as to integrity, abusive comments and statements about motives or personalities. Any member of the public who violates these standards shall be ruled out of order by the Mayor, must immediately cease speaking and shall leave the podium.

8. **Smoking Prohibited.**

There will be no smoking allowed in the City Council Chambers during City Council meetings.

9. **Cell Phones and Pagers.**

Cell phones must be turned off or put in silent mode and not used within the City Council Chambers during City Council meetings. Pagers must be turned off or put in silent mode within the City Council Chambers during City Council meetings. These restrictions also apply during Agenda Sessions.

B. DUTIES AND PRIVILEGES OF COUNCIL MEMBERS AT CITY COUNCIL MEETINGS

1. Seating

Members shall occupy the respective seats in the City Council Chambers assigned by position number. The Mayor (or Assistant Mayor in the Mayor's absence) shall be seated near the center of the City Council table.

2. Conduct

During City Council meetings, Council Members shall preserve order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings. Neither shall they refuse to obey the orders of the Mayor or the rules of the City Council.

Every member of the City Council desiring to speak shall address the chair and, upon recognition by the Mayor, shall confine herself or himself to the question under debate and shall avoid all personalities and indecorous language. A Council Member once recognized shall not be interrupted while speaking unless called to order by the Mayor, unless a point of order is raised by another member or unless the member chooses to yield to questions from another member.

If a member is called to order while he or she is speaking, the member shall cease speaking immediately until the question of order is determined. If ruled to be not in order, the member shall remain silent or shall alter his or her remark so as to comply with the rules of the City Council.

All members of the City Council shall accord the utmost courtesy to each other, to city employees, and to members of the public appearing before the City Council, and shall refrain at all times from rude or derogatory remarks, reflections as to integrity, abusive comments and statements as to motives and personalities. Council Members shall confine their questions as to the particular matters before the City Council and in debate shall confine their remarks to the issues before the City Council.

3. Financial Interest

No member of the City Council with a direct or indirect financial interest in any items before the City Council shall participate in the discussion of or voting on such matter.

4. Voting

Every member present when a question is put to a vote shall vote either "yes" or "no", except that a member may abstain from voting if he or she has not participated in the preceding discussion of the question and if that member has previously stated the reason for the abstention. Except for a question necessary to clarify the meaning of the motion, resolution or ordinance being voted upon, no questions or comments by members of the City Council including the Mayor shall be made during the voting on the pending motion, resolution or ordinance. The Council Members will vote

at City Council meetings in the order of their position number, but with a progressively different position voting first at each meeting.

5. **Roll Call**

Upon every vote the affirmative and negative votes shall be called and shall be recorded on every motion, resolution and ordinance; however, items which may be approved by motion, or contracts and leases which can be approved by resolution, may be grouped together and approved simultaneously with one roll call, under a "Consent Agenda.

C. **MAYOR & VICE MAYOR**

1. **Mayor**

a. **General Power to Preside and Vote**

The Mayor is the presiding officer and ex officio president of the City Council. The Mayor may vote to establish a quorum or to pass an ordinance, resolution or motion if the Mayor's vote is needed for passage. The Mayor does not have the right to vote for an Emergency Clause on an ordinance. An Emergency Clause requires six affirmative votes by the City Council to pass.

b. **Mayor's Veto Power**

The Mayor has the power to veto any ordinance, resolution or order, or part thereof, adopted by the City Council within five (5) days (Sundays excluded) of the City Council vote. Before the next City Council meeting, the Mayor shall file in the City Clerk's office a written statement of reasons for the veto. At the first City Council meeting following the veto, the City Council can override the veto by two-thirds majority (6 affirmative votes).

2. **Vice Mayor**

The City Council shall at the time of organizing, in public session, elect one of its members as Vice Mayor. Any Council Member may nominate himself or herself or any other member of the City Council for Vice Mayor, and no second of a nomination is required. Each Council Member shall vote by naming his or her choice by voice vote if there is more than one nominee for a position. A majority vote of the City Council shall be required for election. In the absence of the Mayor, the Vice Mayor shall preside at the City Council meeting.

3. **Privileges of the Vice Mayor**

The Vice Mayor acting as the Mayor may move, second and debate from the chair and shall not be deprived of the rights and privileges of being a member of the City Council by reason of her or his acting as the Vice Mayor.

D. PROCEDURES AND PARLIAMENTARY RULES

1. Agenda

The City Council's agenda order shall be coordinated by the Mayor. All items for discussion or action at the regular council meeting shall be included in a Tentative Agenda provided to City Council prior to an Agenda Session where the City Council shall determine the final arrangement of the Agenda. Any item the Mayor or a Council Member wishes to include on the Final Agenda that was not included on the Tentative Agenda may only be added to the Final Agenda during the Agenda Session. At the regular meeting of the City Council, the Council, by majority vote, may rearrange the order of the Agenda. An item may be added to the Agenda at the City Council meeting only by a Motion to Suspend the Rules.

2. Precedence of Motions

The City Council shall follow the precedence and classification of motions as given in the most recent edition of the Arkansas Municipal League's 'Procedural Rules for Arkansas Municipal Officials.' In the event a matter is not covered by the 'Procedural Rules for Arkansas Municipal Officials,' the most recent edition of *Robert's Rules of Order* shall apply. On questions of appeal, a majority of those present is required to overturn a ruling by the chair."

3. Motions to be Stated by the Chair/Withdrawal

When a motion is made and seconded, it shall be stated by the Mayor before debate. After being stated by the Mayor, a motion may not be withdrawn by the mover without the consent of the member seconding it and approval of the City Council.

4. Reconsideration

After the decision of any question, any member of the prevailing side may request a reconsideration of any action at the same or the next succeeding meeting; provided, however, that a resolution authorizing or relating to any contract may be reconsidered at any time before final execution thereof. A motion to reconsider requires a simple majority for passage. After a motion for reconsideration has once been acted on, no other motion for reconsideration thereof shall be made without unanimous consent.

5. Readings

All ordinances shall be read aloud at three different meetings unless the City Council votes to suspend the rules.

The following guidelines for reading ordinances are recommended:

- ◆ After the ordinance's first reading, a Council Member may briefly point out potential concerns or benefits from the proposed ordinance, but should refrain from attempting to persuade each other or arrive at a final consensus.
- ◆ Unless there is clearly no opposition or concern about the ordinance, it should be read and open for public discussion during at least two City Council meetings.
- ◆ Complex ordinances that need further clarification or drafting work should be referred to the Ordinance Review Committee.

6. Items Tabled Indefinitely

Any item tabled indefinitely may be taken from the table by majority vote of the City Council during the calendar year in which it was tabled indefinitely. All items tabled indefinitely and remaining on the table at the end of the calendar year shall be deemed denied and rejected for appellate and all other purposes on December 31st and shall not be considered by the City Council in the future unless brought forward as a new item.

E. INTERNAL BOARDS, COMMITTEES, COMMISSIONS AND APPOINTMENTS

1. Membership of Internal Boards, Committees, Commissions and Appointments

a. Standing City Council Committees.

The five standing committees of the City Council are: Equipment, Nominating, Ordinance Review, Streets, and Water and Sewer. Each committee shall have four Council Members appointed by the Mayor in January after every regular election. All Council Members shall serve on at least two of these five committees. Each committee shall elect a chair and vice chair during the first committee meeting after the Council Members are appointed.

b. Other Committees (See also Section H. Citizens Committees)

Council Members may volunteer or request to serve on any of the various other committees which have City Council slots. The Mayor may appoint a Council Member to the other committees pursuant to their request.

c. Appeal Right to City Council

Any Council Member who is dissatisfied with his or her committee assignments can appeal to the whole City Council who can determine by majority vote which Council Member will be appointed to a specific committee.

d. Ad Hoc Committees.

Ad hoc committees may be appointed either by the Mayor or by a majority vote of the City Council to study special problems and projects of the City.

2. Notification and Attendance

All Council Members, representatives of the news media who have requested notification, and other persons who have shown a direct interest in matters to be considered at a committee meeting shall be notified of City Council committee meetings.

Committee meetings shall be held when possible at times that allow all members of the committee to attend. In order for a committee to make an official recommendation to the City Council, a majority of the committee members must agree on that recommendation. Council Members who are not members of a particular City Council committee may generally participate in the meeting of that committee except for voting on committee recommendations, but the chairperson may rule otherwise.

3. City Council Representation on Other Governmental Groups

When it is necessary to appoint a Council Member to an external board, commission or committee, selection of that Council Member shall be made by a majority vote of the City Council. That selection shall be made by nomination and vote in a public session. Any Council Member may nominate himself or herself or (any other member of the City Council), and no second is required. Each Council Member shall vote by naming his or her choice by voice vote if there is more than one nominee for a position. A majority vote of the City Council shall be required for election.

F. MAYOR RELATIONSHIP

1. Definition of Authority

In exercising its legislative responsibilities, the City Council may approve policy which represents broad statements of its intentions, approve plans and programs, and manage the financial aspects of the city through its budgetary powers. The Mayor is empowered to hire capable personnel within the approved wage and salary policy, to plan and establish schedules and to train, supervise and terminate employees.

2. Definition of Responsibilities

The Mayor has the principal responsibility for directing the operations of the city government, and for advising and assisting the City Council in its deliberations. In connection with this latter responsibility, the City Council expects and requests the Mayor shall furnish the City Council with whatever data, information and material it may need to properly carry out its functions in an

informed manner. The City Council also expects the Mayor to abide by the City of Fayetteville Code of Ethics.

3. City Council/Mayor Cooperation

Efficient management of the city can exist only through mutual understanding and complete cooperation between the City Council and the Mayor. The Mayor's performance cannot be of the best unless the Mayor is given the latitude to exercise independent judgment in executing policies of the City Council. The City Council acknowledges that obligation and gives the Mayor the latitude of judgment and discretion, and expects faithful performance in carrying out the policies of the City Council.

While open communication between the City Council and City personnel is encouraged, it shall be understood that administrative authority for the management of the City rests with the Mayor. Members of the City Council should refrain, as individuals, from giving specific direction or instruction to City personnel pertaining to the discharge of assigned duties.

G. CODE OF ETHICS

1. General

As the governing authority of the City of Fayetteville, Arkansas we, the Mayor and Council Members, adhere to the following ethics principles and pledge to conduct our affairs accordingly:

- Serve others, not ourselves.
- Use resources with efficiency and economy.
- Treat all people fairly.
- Use the power of our position for the well-being of our constituents.
- Create an environment of honesty, openness and integrity.

2. Business Transactions

Members of the City Council and the Mayor occupy positions of public trust. All business transactions of such officials dealing in any manner with public funds, either directly or indirectly, must be subject to the scrutiny of public opinion both as to the legality and to the propriety of such transactions.

3. Conflict of Interest

Members of the City Council and the Mayor shall refrain from making use of special knowledge or information before it is made available to the general public; shall refrain from making or

influencing decisions involving business associates, customers, clients, competitors and immediate family members and shall comply with all lawful actions, directives and orders of duly constituted municipal officers as such may be issued in the normal and lawful discharge of the duties of these municipal officers. Nothing herein, however, shall serve to deny the members of the City Council and the Mayor of the legal rights and privileges available to all Fayetteville citizens.

4. Responsibility to All Citizens

Members of the City Council and the Mayor shall conduct themselves so as to bring credit upon the city as a whole and so as to set an example of good ethical conduct for all citizens of the community. The members of the City Council and the Mayor shall bear in mind at all times their responsibility to the entire electorate, shall refrain from actions benefiting special interest groups at the expense of the city as a whole, and shall do everything in their power to ensure equal and impartial law enforcement throughout the city without respect to race, creed, color, or the economic or social position of individual citizens.

In an effort to allow the public full knowledge of financial and personal interests, the Members of the City Council and the Mayor are expected to disclose annually all real estate holdings in Fayetteville and the Fayetteville planning area, and any business or financial interest which could affect or be affected by decisions of the City Council. Such disclosure should be made in writing to the City Clerk in January of each year.

H. CITIZEN COMMITTEES

1. Authorization by the City Council

The City Council may authorize citizen advisory boards, committees and commissions to assist the City Council in discharging its responsibilities more effectively. Authorization will be made by majority vote of the City Council.

2. Selecting of Members

The Nominating Committee shall have the responsibility of coordinating the selection process of members for the citizen advisory groups prior to the final City Council decision. The objectives of the selection process shall be as follows: To provide a broad diversity of qualified individuals for service on the appointed bodies; and to provide an opportunity for participation in city affairs by interested citizens.

The selection process shall follow these procedures:

- a. Periodic news releases and articles, generally at least two weeks in advance of appointments, requesting interested individuals to notify the City Clerk's office of their interest in being considered for appointment. Application forms should be completed by each person who expresses an interest in a position.

- b. Council Members, city staff members and interested individuals and organizations who know of qualified persons should encourage them to apply for appointment.
- c. Cable television should be used to notify citizens of vacancies in citizen committees.
- d. The City website, accessfayetteville.org, should list vacancies in citizen committees.
- e. Any person who has served two consecutive full terms on any City commission or board shall not be eligible for reappointment to the same commission or board until one full term of office has expired, unless there is an insufficient number of qualified applicants to fill all vacancies. Service of a partial term shall not count against the two terms that are allowed.

Prior to any appointment, the City Clerk's office will circulate to the full City Council copies of applications of the individuals on file for the appointive body. Council Members may recommend applicants or offer comments to the Nominating Committee prior to their scheduled meeting.

The Nominating Committee will narrow the list of prospective appointees to no more than two individuals for each position. This decision will be made in an open meeting. The recommendations will be submitted to the full City Council for final decision. The committee's first choice may be indicated. All positions shall be decided by majority vote of the City Council. In instances where there is more than one nominee for a position, either by Nominating Committee recommendation or by other nominations, each Council Member shall vote by naming his or her choice for that position. The City Council will act officially on all appointments in public session.

I. Vacancy in the Office of a Council Member

A vacancy in the office of a Council Member shall be filled pursuant to the requirements of Ark. Code Ann. § 14-43-411.

J. Orientation of New Council Members

1. **Orientation Meeting Scheduled.** The City Council, Mayor, City Attorney, City Clerk/Treasurer and appropriate City Staff shall meet with and conduct one or more orientation sessions with newly elected Council Member's in December after each General Election or within one month after a Special Election in which a new Council Member is elected. Each newly elected Council Member shall attend the orientation session(s).
2. **Content of Orientation.** The City Council, Mayor and other members of the orientation group shall explain:
 - a. Rights and duties of Council Member's;
 - b. Organizational structure of city government;

- c. Role of the City Council Committees;
- d. How to initiate Resolutions and Ordinances;
- e. The purpose and procedure for the City Council Agenda session;
- f. Reasons to approve or disapprove land use and development issues;
- g. Council tours to view and discuss land proposed for rezoning or development;
- h. City Council Rules of Order and Procedure;
- i. Freedom of Information Act requirements.

3. Ongoing Orientation.

- a. Within the first week of a Council Member's term, the administration should provide an administrative and human resources orientation to include issuing parking permits, fobs, and other necessary equipment for the Council Member, as well as assistance for the completion of all necessary state and federal documents.
- b. Within the first quarter of a Council Member's term, the administration should arrange for a budget overview and tours of all major city facilities and functional areas.