

Legistar ID No:
2020-0159

AGENDA REQUEST FORM

FOR: Council Meeting of March 3, 2020

FROM: Council Member Matthew Petty

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:


A RESOLUTION TO AMEND THE RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE CITY COUNCIL TO LIMIT PUBLIC COMMENTS TO THREE MINUTES EACH AND RECOGNIZE THE STATUTORY READING REQUIREMENT FOR ORDINANCES MAY BE DISPENSED WITH A SINGLE MOTION TO SUSPEND OR DISPENSE WITH THE RULE

APPROVED FOR AGENDA:



City Council Member
Matthew Petty

2-18-2020
Date



City Attorney Kit Williams
Approved as to form

February 13, 2020
Date

14-55-202. Reading requirement.

(a) All bylaws and ordinances of a general or permanent nature 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.

(b) In a city with a population of less than fifteen thousand (15,000) persons in the most recent federal decennial census, if the ordinance under consideration has been submitted to and approved by the electors of the municipality and is being amended, repealed, or otherwise altered by the municipal council, then the ordinance shall be fully and distinctly read on three (3) different days not less than twenty-eight (28) days apart.

History. Acts 1875, No. 1, § 86, p. 1; C. & M. Dig., § 7502; Pope's Dig., § 9562; A.S.A. 1947, § 19-2402; Acts 2017, No. 1052, § 1.

Amendments. The 2017 amendment added the (a) designation; and added (b).

CASE NOTES**Resolutions.**

Annexation of lands from a city to a municipality, at the request of the lands' owners, was not invalid due to a failure to read the annexation resolutions on three different days or to publish the resolutions because (1) the resolutions were not gen-

eral, as the resolutions encompassed only annexed areas, and (2) the resolutions were not permanent, as the resolutions were terminable without repeal. *City of Rockport v. City of Malvern*, 2012 Ark. 445, 424 S.W.3d 870 (2012).

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 emer-

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

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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.

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:



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Communications Director

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: **February 26, 2020**

RE: **Additional time limitation proposals for Rules of Order and Procedure of the City Council**

Pursuant to comments and requests made at the Agenda Session yesterday afternoon, I have drafted a possible amended Resolution incorporating the other changes suggested by the City Council. This amended Resolution is attached for your review and may be included within the Final Agenda Packet.

The new changes suggested by the City Council would (in addition to the currently proposed changes):

- (1) Limit presentations by the agenda applicant to ten minutes unless extended by unanimous consent of the City Council;
- (2) Allow a public speaker additional time by unanimous consent or majority vote.

If these changes are what you would like to incorporate into your *Rules of Order and Procedure*, then someone needs to request the current proposal be amended to this amended Resolution when this agenda item is read by Mayor Jordan. Please let me know if there are any problems with or needed changes to this newly proposed amended Resolution.

RESOLUTION NO. _____

A RESOLUTION TO AMEND THE *RULES OF ORDER AND PROCEDURE OF THE FAYETTEVILLE CITY COUNCIL* TO LIMIT APPLICANT PRESENTATIONS TO TEN MINUTES, PUBLIC COMMENTS TO THREE MINUTES EACH AND RECOGNIZE THE STATUTORY READING REQUIREMENT FOR ORDINANCES MAY BE DISPENSED WITH A SINGLE MOTION TO SUSPEND OR DISPENSE WITH THE RULE

WHEREAS, permitting five minutes for all members of the public to speak about an agenda item has resulted in numerous lengthy meetings requiring some members of the public to wait until midnight or later to speak to an issue being considered by the City Council; and

WHEREAS, shortening the time limit from five minutes to three minutes would allow all members of the public a better and more reasonable opportunity to express their support, opposition, or concerns relating to agenda items being considered by the City Council; and

WHEREAS, state law allows “two-thirds (2/3) of the members composing the municipal council (to) dispense with the rule” requiring ordinances to “be fully and distinctly read on three (3) different days”; and

WHEREAS, some uncontroversial ordinances should be able to be moved to their final reading by a single motion to suspend or dispense with the rule rather than the two motions the City Council has used for over a quarter century.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends A.7.d (2) **Public Comments** by amending the five minute limitation for public speakers to three minutes and by repealing its last sentence and replacing it with the following: “By unanimous consent or a majority vote of the Council Members present and voting, this time limitation may be altered for the speaker on this specific agenda item.”

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby amends A.7.d. (1) by repealing and deleting its third sentence and replacing it with a new third sentence as follows: “An agenda applicant (contractor, rezoning or development applicant, etc.) may present its proposal only during this presentation period, is limited to a ten minute presentation unless extended by the unanimous consent of the City Council, but may be recalled later by a City Council Member to answer questions.”

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby amends D.5. **Readings** by adding a sentence after “All ordinances shall be read aloud at three different meetings unless the City Council votes to suspend the rule,” as follows: “The City Council may suspend or dispense with rule and move immediately to the final reading (without first moving to the second reading) by moving to “dispense with rule and move to the final reading.”

PASSED and APPROVED this 3rd day of March, 2020.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
KARA PAXTON, City Clerk/Treasurer

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