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**City Council Work Session Minutes
Council Rules Review**

**Monday, January 25, 2021
5:30 p.m., Webex Community Auditorium**

***Minutes are unofficial until approved by Council.
Council approved minutes as presented February 22, 2021.***

1. ROLL CALL:

Mayor Peter Truax called the work session to order at 5:30 p.m. via Webex Video Conference.

COVID-19: Due to the emergency declaration resulting from COVID-19 (Coronavirus disease) and protocols, the **City Council conducted the Work Session remotely by video conferencing.**

ROLL CALL: COUNCIL PRESENT ATTENDED BY WEBEX REMOTELY: Donna Gustafson; Kristy Kottkey; Timothy Rippe; Elena Uhing; Mariana Valenzuela; Malynda Wenzl, Council President; and Mayor Peter Truax.

STAFF PRESENT ATTENDED BY WEBEX REMOTELY: Jesse VanderZanden, City Manager; Ashley Driscoll, City Attorney; Paul Downey, Administrative Services Director; Colleen Winters, Library Director; and Anna Ruggles, City Recorder (in the Community Auditorium).

2. WORK SESSION: COUNCIL RULES

VanderZanden reported the purpose of the work session was to continue the review effort of the provisions of the Council Rules, noting the Council reached consensus at the Council mini-retreat held on September 11, 2020, to incorporate the Team Agreement and City Council Orientation into the Council rules where appropriate. The Council also reached consensus to use the 2017 League of Oregon Cities (LOC) "Model Rules of Council Procedure" (Model) as a basis for Council Rule revisions. The Council has held the following work sessions and focused on the following provisions as outlined below:

- **October 12, 2020:** Council reached consensus to incorporate the proposed amendments shown in the staff report to include an Introduction Statement and amendment to Section 3.1 adjournment by 9:30 p.m.
- **November 9, 2020:** Council adopted Resolution 2020-104 incorporating the above-mentioned amendments.
- **November 23, 2020:** Council reviewed Discussion Item 1, Section 5 – Decorum, Order, Ethics, and Statements to the Media and Other Organizations, which included proposed amendments to Sections 5.1 Presiding Officer; 5.2 Councilmembers; and newly-proposed Sections 5.5 Ethics; 5.6 Statements to the Media and Other Organizations; 5.7 Censure, which currently there are no censure provisions in the Council Rules. The language was taken from the LOC Model

Rules and reviewed by the City Attorney. At the November 23 work session, Council reached consensus to incorporate the proposed amendments to 5.1 and 5.2 and requested staff conduct additional research and clarification on the remaining sections mentioned above. In addition Council discussed the definition of serial communications and requested staff return with draft rule language.

- **January 11, 2021:** Council reached consensus to incorporate the proposed amendments shown in the staff report to include Discussion Item 1, Section 5, Decorum, Order, Ethics, and Statements to the Media and Other Organizations: Amending Sections 5.1 Presiding Officer and 5.2 Councilmembers and adding proposed Sections 5.5 Ethics and 5.6 Statements to the Media and Other Organizations.

In conclusion of the above-noted staff report, VanderZanden advised staff is recommending Council take a systemic and incremental approach to discussing each proposed rule revisions, continuing with the remaining provisions of Section 5.7 Censure and if time allows, reviewing Discussion Items 2, 3 and 4 as outlined in the staff report.

Council Discussion:

Mayor Truax opened the floor and roundtable discussion ensued as Council reviewed and discussed each of the following proposed revisions as outlined below. VanderZanden explained additional rule revisions listed in the staff report will be addressed after Council has progressed through the process. To enable the review of the proposed changes, the following template was provided:

- Regular text indicates existing Council Rule language.
- **Bold** text indicates proposed new Council Rule language based on the LOC Model.
- ~~Strikethrough~~ indicates proposed deleted existing Council Rule language.
- **Red** text indicates provisions from the Team Agreement.
- **Blue** text indicates past practice guidelines from the City Council Orientation.
- **Purple** text indicates new text proposed by staff.

Discussion Item #1:

5.7 Censure and Removal

- A. The council may enforce these rules and ensure compliance with city ordinances, charter and state laws applicable to governing bodies. If a councilmember violates these rules, city ordinances, the city charter or state laws applicable to governing bodies, the council may take action to protect the integrity of the council and discipline the member with a public reprimand.**
- B. The council may investigate the actions of any councilmember and meet in executive session under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the city charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected**

member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).

*In response to concerns pertaining to elected versus appointed officials, Driscoll advised once a member is appointed to fill a Council vacancy, the member is a councilmember. Council discussed having censure for Boards and Commissions (B&C), to which VanderZanden explained B/C members have a separate process for removal of members as outlined in Council Rules, Section 14.3. VanderZanden advised the above-language was taken from the LOC Rules and would apply only to councilmembers. **No amendments were proposed to Section 5.7 as outlined above.***

DISCUSSION ITEM #2:

The Council discussed the definition of serial communications on November 23, 2020, and requested staff return with draft rule language. The proposed language below was drafted by the City Attorney and derived from Oregon Revised Statute 192 as well as subsequent court cases. Staff proposes the new language be included in Section 3 of the Council Rules, which pertains to Council Meetings.

3.8 Meetings Open to the Public and Serial Communications

A. All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192. A quorum of the Council is prohibited from meeting in private to make decisions or deliberate on matters of city business that fall within the scope of the Council's jurisdiction. This prohibition includes in-person meetings where a quorum exists as well as serial communications that may occur over email, text message, social media, and through conduits, such as city staff.

B. One-on-one or small group (non-quorum) conversations or communications regarding city business are generally permitted as long as the views or thoughts of a quorum of the Council are not shared during those conversations. As a result, councilmembers should share only their personal views on city business being discussed in one-on-one or non-quorum conversations and not discuss the views or opinions of other councilmembers who are not involved in the discussion.

C. Councilmembers should avoid "replying all" to informational emails sent to the entire council or a quorum of councilmembers regarding city business that occur outside of a Council meeting. Although one-way information sharing on administrative items (i.e., agenda topics and meeting availability) is permissible outside of a Council meeting, councilmembers should avoid back and forth conversations between a quorum of members via email.

D. Councilmembers should be cognizant that a "serial" meeting can occur through the use of social media if a quorum of the council engages in discussions regarding city business on a social media platform. As a result, Councilmembers should be

careful not to comment or engage in a social media conversation regarding city business that other members of the Council have already participated in.

*Council discussed social media, blogs, soliciting input and citizen perception and transparency, to which Driscoll advised violations occur when a quorum of three or more councilors engage in discussions regarding City business regardless of the platform. There was discussion that councilmembers should be cognizant and not comment or engage in other councilmembers' conversations on social media or other platforms. There was discussion about making a disclaimer and having individual personal opinions, which pertains to newly-proposed Section 5.6, Statements to the Media and Other Organizations, reviewed January 11, 2021. Mayor Truax added there has to be some expectation from the public that councilors be distinctive when making personal opinions. **No additional amendments were proposed to Section 3.8 as outlined above.***

DISCUSSION ITEM #3:

Staff proposed moving Sections 7.2 and 7.4 in their entirety to subsections 6.4.2 as outlined below with one minor change to the title as noted below. No other changes are proposed.

6.4.2. CITIZEN COMMUNICATIONS PUBLIC COMMENT

- F. **(move from Section 7.2 to 6.4.2)** Persons Sharing Common Concerns – If any group of three or more persons sharing a common viewpoint on any subject wishes to address the Council during the time set aside for Citizen Communications, the group may select a spokesperson, which may present the views of the group to the Council to a maximum of five (5) minutes, unless additional time is granted by the Presiding Officer. The Council, in its sole discretion, may request to hear the views of additional speakers from the group. Additional support for the views of the group, in the form of petitions, letters, videotapes, etc., shall be presented to the City Recorder at the conclusion of the spokesperson's remarks.
- G. **(move from Section 7.4 to Section 6.4.2)** Complaints and Suggestions to the Council - When any citizen brings a complaint before or makes a suggestion to the Council, other than for items on the current meeting agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:
 - (1) If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to the City Attorney, City Manager, or an advisory body for study and recommendation.
 - (2) If administrative, and a complaint regarding administrative staff performance,

administrative execution or interpretation of legislative policy, or administrative policy within the authority of the City Manager, the Presiding Officer shall refer the complaint directly to the City Manager for review if the complaint has not already been reviewed. The Council may direct the City Manager to report to the Council when the review has been completed.

At the conclusion of the above review, Council collectively concurred to incorporate the proposed provisions as outlined above. In conclusion of the above-noted review and Council discussion, VanderZanden advised the above-noted sections that Council reached consensus on will be embodied in a resolution and placed on a regular Council meeting agenda for Council consideration at a later date. Due to the time, a follow-up work session will be scheduled at a later date.

Council took no formal action nor made any formal decisions during the work session.

3. ADJOURNMENT:

Mayor Truax adjourned the work session at 6:14 p.m.

Respectfully submitted,



Anna D. Ruggles, CMC, City Recorder