

Council Business Meeting

March 3, 2020

Agenda Item	Council Practices and Protocols	
From	Dave Lohman	City Attorney
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SUMMARY

To complete deliberations on Council operating procedures, this agenda item proposes a resolution finalizing Council Rules and Protocols.

POLICIES, PLANS & GOALS SUPPORTED

- Enhance and improve transparency and communication.

BACKGROUND AND ADDITIONAL INFORMATION

In July 2017, Council began a series of discussions on Council practices and protocols under the title “Council Rules.” In these sessions, staff posed 38 questions about Council procedures that had arisen multiple times in the past without resulting in clear understanding of Council’s preferred practices. The questions presented for discussion were generally accompanied by staff-suggested conclusions, points and authorities to consider, and alternative conclusions to consider. (Some questions were later revamped and merged.)

Some of the questions were addressed in study sessions; others in regular business meetings. These discussions occurred on the following dates: [Regular Business Meeting 08.15.17](#), [Study Session 11.20.17](#), [Regular Business Meeting 01.02.18](#), [Regular Business Meeting 04.03.18](#), [Study Session 07.16.18](#), and [Regular Business Meeting 12.04.18](#) and [Study Session 08.09.19](#)

The final subset of the 38 questions was addressed at the December 4, 2018 regular business meeting. Then, in the 08.19.19 Study Session, Council was presented with the full set of questions and conclusions and asked to confirm or revise the earlier tentative conclusions, focusing mostly on a few questions about which staff was uncertain as to the Council’s final disposition.

Staff’s takeaways from the 08.19.19 Study Session are summarized below:

- Council directed staff to bring back for adoption at a future regular business meeting a resolution containing the Council Rules and Protocols (which is the reason having this item on the 03.03.20 meeting agenda).
- Councilmembers were encouraged by the Mayor to provide any additional feedback they might have to staff after the meeting as to the content of the proposed Council Rules and Protocols. Councilor Rosenthal did so, and his suggestions are noted in comments in the right-hand margin of the attached proposed resolution.
- The resolution should reflect staff’s understanding of the views expressed by a majority of Councilmembers at the 08.19.19 Study Session or, in the absence of a clear majority, should highlight provisions warranting further discussion.

This matter was scheduled for Council decision at its October 15, 2019 meeting but was postponed affording a Councilor not in attendance that night the opportunity to participate in the deliberation.

Attachment 1 is a proposed resolution on Council Rules and Protocols which reflects the changes apparently agreed upon at the 08.19.19 Study Session and contains comments in the margin noting provisions about which Councilor Rosenthal had questions or suggestions or about which staff remains uncertain as to Council's preferences.

FISCAL IMPACTS

N/A

STAFF RECOMMENDATIONS

N/A

ACTIONS, OPTIONS & POTENTIAL MOTIONS

1. I move to approve Resolution No. 2020-03 concerning *Council Rules and Protocols*, as shown in Attachment 1, with the marginal comments deleted.

OR

2. I move to approve Resolution No. 2020-03 concerning *Council Rules and Protocols* as shown in Attachment 1, with the marginal comments deleted and with the following changes.....

REFERENCES & ATTACHMENTS

Attachment 1: *Council Practices and Protocols* with comments in the margin noting provisions about which Councilor Rosenthal had questions or suggestions or about which staff remains uncertain as to Council's preferences.

1 meeting’s agenda receives a second, any debate, and majority approval, the item normally
2 would be placed in the “Other Business from Council Members” section of the agenda. The
3 Mayor, however, could decide to modify the order. See *AMC 2.04.030C*.

- 4 b. Outside of a meeting, an individual Councilor can get a matter added to a future Council
5 meeting agenda by making a timely written request to the City Administrator, unless the item
6 requires more than two hours of preparation by staff – in which case consent from a majority
7 of the Council at a Council meeting is required. See *AMC 2.04.030B*.
- 8 c. Any citizen may seek to get a matter by making a request to any Councilor or the Mayor or
9 City Administrator or to a City advisory board, commission, or committee or by making the
10 request as part of testimony during Public Forum.

11 **5. Removing Agenda Items.**

12 A Councilor may seek removal or postponement of a scheduled agenda item before or at the
13 outset of consideration of the item by making an “objection to consideration of the question.”
14 After consideration of a matter has begun, a Councilor may “move to postpone the matter to a
15 certain time” or “move to postpone the matter indefinitely.” These are parliamentary
16 mechanisms for deferring an agenda item which is believed to be not yet ripe for consideration.
17 See *AMC 2.04.040C.4.b(3); 2.04.040C.4.j and k*.

18 **6. Presentation Slides.**

19 Staff should make every effort to complete presentation slides in time for inclusion in the
20 Council agenda packet. If, after agenda packets are mailed out, changes to presentation slides
21 become necessary to avoid misinformation, staff should highlight such changes early in
22 Council’s consideration of the apposite agenda item.

23 **B. STUDY SESSIONS**

24 **1. Miscellaneous Study Session Protocols**

- 25 a. Study Sessions should be televised and held at Council Chambers.
- 26 b. A more roundtable-like seating arrangement for Study Sessions at Council Chambers should
27 be tried on a provisional basis to determine whether such an arrangement would further
28 informal, wide-ranging, and inclusive dialogue.
- 29 c. Study Sessions should begin at 5:30 p.m. on the Mondays before Tuesday business meetings.
30 Unless a majority votes to extend an additional 30 minutes, Study Sessions should conclude
no later than 7:00 p.m.

Commented [A1]: Councilor Rosenthal asked, “Should recommendation from 2 Councilmembers or the Mayor be a prerequisite?”

Commented [A2]: At the 08.19.19 Study Session, 2 Councilmembers favored removing this provision.

1 d. The preferred time for any Executive Sessions is just before the start of regular business
2 meetings.

3 e. The Look Ahead need not be presented as an agenda item at Study Sessions; instead, it
4 should be distributed in advance via email, allowing Councilmembers to ask about particular
5 planned future agenda items either before or at a Study Session.

6 f. Public Forum presentations at a Study Session be limited to topics on the agenda for that
7 Study Session. See *AMC 2.04.020C.2*

8 g. At Study Sessions, suspension of the rules is not necessary for the chair to grant a
9 Councilmember's request for additional reasonable time for follow-up dialogue with and
10 exploratory questioning of presenters after presenters have used up their allotted time.

11 **2. Decisions at Study Sessions**

12 a. Study Sessions should be for providing Councilmembers background information and
13 providing staff a rough sense of Councilmembers' interests and concerns about impending
14 public issues.

15 b. *AMC 2.04.020C.1* says, "Study sessions are for Council members to receive background
16 information and recommendations from staff or invitees with expertise on City business; to
17 ask questions, discuss options, express their individual views on matters that may be voted on
18 in subsequent regular or Special Meetings and to provide guidance to staff. The Council may
19 vote in Study Sessions on guidance to staff concerning matters to be presented to Council for
20 decision at subsequent meetings. By consensus, the Council also may direct staff to take
21 action on other matters that do not require Council decision by ordinance or resolution...."

22 c. Provisional deliberations and decisions, including motions on directions to staff, are
23 allowable at Study Sessions, but final decisions about resolutions, ordinances and policies are
24 to be made at regular business meetings.

25 **3. Summations**

26 The Mayor or City Administrator should be responsible for providing a summary of action
27 taken/direction given at the end of each Study Session agenda item.

28 **C. COMMENTS/ PRESENTATIONS/ CORRESPONDENCE FROM CITIZENS**

29 **1. Presenter Identification**

30 Persons making presentations to Council should state (1) which city they reside in; or (2) which

Commented [A3]: At the 08.19.19 Study Session, 4 Councilmembers favored having executive sessions generally occur just before regular business meetings rather than just after study sessions.

Commented [A4]: At the 08.19.19 Study Session 2 Councilmembers favored deletion of this item and 3 Councilmembers appeared to favor retaining it.

Commented [A5]: Per Councilor Rosenthal's suggestion, "unlimited time" in the 08.19.19 version of this resolution has been changed to "reasonable time."

1 county they reside in, if in an unincorporated area; or (3) the organizations for which they are
2 speaking or with which they are affiliated with respect to their presentations. Persons speaking
3 at Public Forum or during public testimony on agenda items should include current contact
4 information on the “Speaker Request” forms they submit to reserve an opportunity to address the
5 Council.

6 **2. Time Limits on Presentations**

7 For agenda items at regular Council business meetings, the presiding officer is responsible for
8 setting time limits on public testimony on scheduled agenda items. *AMC 2.04.050G.2* For Study
9 Sessions, public testimony is limited to 15 minutes unless a majority of Councilors votes to
10 revise or eliminate that time. *AMC 2.04.050D.2.*

11 **3. Public Input on Agenda Items**

- 12 a. At regular Council business meetings, after staff’s initial presentation on agenda items and
13 Councilmembers’ opportunity to ask staff clarifying questions, members of the public should
14 be invited to present their views. Next, Council may put any additional clarifying questions
15 to staff or invited “experts.” Then Council should begin deliberation on the agenda item,
16 either in the form of general colloquy or in the form of specific motions and debate. During
17 this period of Council deliberation on an agenda item at a regular Council business meeting,
18 members of the staff or invited “experts” may present additional information to the Council
19 in response to a specific request from a Councilmember; but during such Council
20 deliberation, additional testimony from members of the public should be allowed only after a
21 successful motion to suspend the rules. Any such questions and responses to and from non-
22 Councilmembers allowed during Council deliberation should be only to provide clarification
23 of facts, and not to present argumentation or advocacy.
- 24 b. If a citizen signs up at a regular business meeting to testify on an item on the Consent
25 Agenda, Council should hear the testimony on the item before voting on it. Such testimony
26 should be heard at the outset of the Consent Agenda portion of the meeting. After the
27 testimony, a Councilor may or may not ask that the subject agenda item be pulled from the
28 Consent Agenda for separate Council consideration and voting.

29 **4. Responses to Public Input**

30 Follow-up questions or responses by Councilmembers should be allowed without suspension of

Commented [A6]: Per Councilor Rosenthal's suggestion, "unless a majority of Councilors votes to extend that time" in the 08.19.19 version of this resolution has been changed to "unless a majority of Councilors vote to revise or eliminate that time."

1 the rules only (1) in Study Sessions; and (2) when the speaker is a staff presenter, or a subject
2 matter expert invited by staff or Council to make a presentation. At regular business meetings,
3 follow-up questions or responses by Councilmembers should not be allowed with respect to
4 testimony by members of the public during Public Forum or during testimony on agenda items
5 except in unusual circumstances and after suspension of the rules. However, Councilmembers or
6 City staff may be recognized by the presiding officer following testimony by members of the
7 public for purposes of correcting for the record misleading errors in a purported statement of fact
8 or for the purpose of rebutting negative personal comments proscribed by AMC 2.04.040C.2.

9 **5. Inquiries During Public Input.**

10 Presentations during regular business meetings and Study Sessions should be directed to the
11 Council. Likewise, testimony by members of the public -- in Public Forum or in agenda item
12 testimony -- should be directed to the Council, including any recommendations to the Council on
13 questions to ask of staff or subject matter experts. Members of the public should not pose
14 questions directly to presenters.

15 **6. Renewed Public Input.**

16 In the event of continuation of an ordinance, resolution or quasi-judicial land use determination
17 to a subsequent meeting, or when an ordinance is presented for Second Reading, members of the
18 general public who had an opportunity to testify on the agenda item in one meeting should only
19 be able to testify at a subsequent meeting if and to the extent the item presented for approval at
20 the subsequent meeting has been revised. Continued agenda items -- other than quasi-judicial
21 land use decisions, resolutions, or first or second readings of ordinances -- should not be subject
22 to this rule.

23 **7. Responses to Written Public Input**

- 24 a. If citizen correspondence is addressed to just one Councilmember and appears to seek a
25 response from just that individual Councilmember -- even though others may be copied on
26 the correspondence -- the addressee should decide how best to respond. Staff should respond
27 only upon request from the Councilmember and, if so, should send copies of the response to
28 all Councilmembers.
- 29 b. If citizen correspondence is addressed to two or more Councilmembers and appears to seek a
30 response from each Councilmember recipient, the City Administrator will (a) provide a

Commented [A7]: This addition was suggested by Councilor Rosenthal.

- 1 responsive reply directly to the citizen if the subject matter is within the scope of City
2 administration and will send copies of the reply to each Councilmember; or (b) notify the
3 citizen and the Councilmembers that the correspondence concerns policy matters and that
4 individual Councilmembers may or may not reply as appropriate and as time permits.
- 5 c. If citizen correspondence seeking a response is addressed to the City Administrator or a
6 Department Director, the recipient should respond directly to the correspondent and provide
7 copies to the entire Council, whether all the Councilmembers received copies of the
8 correspondence.
- 9 d. If citizen correspondence is sent to the City website or is posted on social media so as to alert
10 the City Administrator to its presence and clearly seeks a response, the City Administrator
11 will see that the correspondent receives an appropriate response from City staff, with a copy
12 to the entire Council.
- 13 e. For citizen correspondence on Parks matters, the APRC Director or the Parks Commission
14 will have responsibility for deciding how best to respond and provide copies to City
15 Councilmembers and the City Administrator as appropriate.

16 **8. Guidelines for Public Input**

17 Staff should establish clear guidelines for those attending and making presentations at Council
18 Meetings and make such guidelines readily available and perhaps augment them with a brief
19 video presentation just prior to the start of Council meetings.

20 **D. COUNCIL DELIBERATION RULES**

21 **1. Taking Turns**

22 During Council regular business meetings, every Councilor should get a turn to speak about an
23 issue under consideration before any other Councilor gets a follow-up turn. *AMC 2.04.040C.2.*
24 During Study Sessions however, this rule need not be observed

25 **2. Negative Personal Comments**

26 Council members, as well as members of the public are to “make no negative personal remarks
27 or comments about the motives or personal traits of others.” *AMC 2.04.040C.2.* “The Mayor and
28 council members should strive not to criticize any person in a public meeting or in public
29 electronic mail messages.” *AMC 2.04.080D.* The rules against negative personal remarks or
30 comments about the motive or traits of others during meetings should be enforced by the
presiding officer. *AMC 2.04.040C.3.*

1 3. **Suspending Rules.**

2 Suspension of the rules can be achieved by a two-thirds affirmative vote on a motion to “suspend
3 the rules in order to...” No debate or amendment is allowed, but a second is required and the
4 Councilor making the motion can provide a brief justification. *Robert’s Rules of Order Newly
5 Revised, 11th Edition (RONR), Section 25, pp. 260-62. AMC 2.04.0410E* allows only the
6 following nine rules in AMC 2.04 to be suspended without enacting an ordinance:

- 7 1. [AMC 2.04.020.A](#) (Regular Meeting days and times)
- 8 2. [AMC 2.04.020.C](#) (Study Session days, times, and content)
- 9 3. [AMC 2.04.040.B](#) (Attendance by electronic communication)
- 10 4. [AMC 2.04.040.C.4](#) (Parliamentary procedure)
- 11 5. [AMC 2.04.050.D.1](#) (Placement of Public Forum in agenda)
- 12 6. [AMC 2.04.050.D.4](#) (Rules on requests to speak at Public Forum)
- 13 7. [AMC 2.04.050.F.3](#) (Rules on requests to speak at Public Hearings)
- 14 8. [AMC 2.04.050.G.1](#) (Opportunity for public comment on agenda items)
- 15 9. [AMC 2.04.050.J.1](#) (Submittal of ordinances 14 days in advance of meeting)

16 a.) **Should suspension of the rules always require a formal vote?**

17 A Councilor can say, “I ask unanimous consent to suspend the rules to...”; the chair then asks if
18 anyone objects and, if so, proceeds to take a vote as if a formal motion had been made. *Robert’s
19 Rules of Order Newly Revised, 11th Edition (RONR), Section 25, pp 266-67.*

20 E. **COUNCILMEMBER REQUESTS TO STAFF FOR INFORMATION OR**
21 **ACTIONS.**

22 1. **Council Requests to Staff**

- 23 a. Outside of a meeting, a Councilor seeking information from staff should channel the request
24 through the City Administrator to the pertinent Department Head. Email requests should be
25 sent directly to the pertinent Department Head with a copy to the City Administrator.
26 Requests for information should not be made directly to staff below Department Head level.
 - 27 b. If staff is likely to have to take more than two hours to provide a meaningful response to a
28 request, the request must be approved by the Mayor or City Administrator or City Attorney,
29 or by a majority vote of the Council. *AMC 2.04.080A.*
- 30

1 2. **Staff Responses to Councilor Requests**

- 2 a. If the request is for readily available information, the employee should promptly provide the
3 requested information and inform the employee’s supervisor of the Councilor’s request and
4 the information provided.
- 5 b. If an employee receives a Councilor request for input that likely would require fewer than
6 two hours to produce, the employee should respond as follows:
- 7 i. Employee should provide the Councilor an estimate of the time required to produce the
8 response and seek an agreement on how soon the response can be provided.
- 9 ii. Employee should forward the requested information to his/her supervisor for transmittal
10 to the Department Head, who should be the one to transmit the information to the
11 requester and share the information with the City Administrator.
- 12 c. When an employee receives a Councilor request for input that likely would require more than
13 two hours to produce, the following steps should be taken:
- 14 i. Employee should provide to the requester an estimate of the time required over and above
15 the time staff would otherwise be spending on the underlying matter in any event.
- 16 ii. Employee should remind the requester that a management policy directs employees to
17 forward to the appropriate Department Head any Councilor request to which a
18 meaningful response is likely to take more than two hours of staff time.
- 19 iii. The Department Head should ask the Mayor, City Administrator, or City Attorney to
20 approve providing a response to the request or to add to an upcoming meeting agenda a
21 question as to Council direction on whether and to what extent staff time should be
22 devoted to responding to the request.
- 23 d. Staff should provide all the Councilmembers copies of any responses to a
24 Councilmember’s inquiries or suggested guidance.

25 3. **Pre-Meeting Councilmember Communications with Staff.**

26 If possible, after receiving agenda packets, Councilors with questions or concerns they would
27 like to have addressed at an upcoming meeting should so advise the relevant staff presenters or
28 the City Administrator in advance of the meeting.

29

30

1 **SECTION 2.** In preparing this resolution for publication and distribution, the City Recorder
2 shall not alter the sense, meaning, effect, or substance of the ordinance, but within such
3 limitations, may: (a) Change reference numbers to agree with renumbered chapters, sections or
4 other parts of the Ashland Municipal Code; (b) Delete references to repealed sections of the
5 Code; (c) Change capitalization and spelling for the purpose of uniformity; and (d) Correct
6 manifest clerical, grammatical, or typographical errors.

7 **SECTION 3.**
8 This resolution is effective upon adoption.

9
10 ADOPTED by the City Council this _____ day of _____, 2020.

11
12 ATTEST:
13
14
15 _____
16 Melissa Huhtala, City Recorder

17
18 SIGNED and APPROVED this _____ day of _____, 2020.
19
20
21 _____
22 John Stromberg, Mayor

23
24 Reviewed as to form:
25
26
27 _____
28 David H. Lohman, City Attorney

29
30