

Council Communication

May 19, 2015, Business meeting

First Reading of an Ordinance Amending Chapter 2.10.040 to Revise Standards for a Quorum and for Number of Votes Needed for Official Action at Meetings of Advisory Commissions and Boards

FROM:

David H. Lohman, City Attorney, lohmand@ashland.or.us

SUMMARY:

This agenda item is the first reading of an ordinance defining a quorum of any meeting of a City advisory body to be more than one half of the members serving on the body at the time of the scheduled meeting and requiring that any official action of the body be approved by no fewer than three of the voting members and a majority of the voting members present at the meeting.

BACKGROUND AND POLICY IMPLICATIONS:

At its May 4, 2015, study session, the Council discussed a proposal forwarded from the Public Arts Commission (“PAC”) to change the definition of “quorum” contained in AMC 2.10.040. That code section currently reads, “A meeting quorum shall consist of more than one-half of the total number of authorized members of the body, *including any vacant positions.*” (Emphasis added.) The PAC requested that vacant positions not be counted toward the number required for a quorum. The PAC’s request, which has been seconded by some other City advisory bodies, is motivated by the fact that there are almost always vacant positions on our boards and commissions. These vacancies, together with the usual absences due to vacations, illness etc., sometimes make it difficult to obtain a quorum for a particular meeting. For instance, the Public Arts Commission has seven positions. With only five of the positions currently filled, four of the members must be present in order to have a quorum. With this requested amendment, attendance by three of the five current members would constitute a quorum.

Councilors at the May 4 study session appeared amenable to reducing the quorum requirements for meetings of advisory boards and commissions only if any official action of the body had to be approved not only by a majority of the voting members present at the meeting but also by at least three of the voting members – regardless of the number of current members. Accordingly, the proposed ordinance amendment effectively reduces the quorum requirements for advisory boards and commissions while placing a floor on the minimum number of votes required to take any action.

COUNCIL GOALS SUPPORTED:

N/A

FISCAL IMPLICATIONS:

N/A



STAFF RECOMMENDATION AND REQUESTED ACTION:

Staff recommends approval of this ordinance.

SUGGESTED MOTION:

I move approval of the first reading by title only of an ordinance titled, “An Ordinance Amending Chapter 2.10.040 to Revise Standards for a Quorum and for Number of Votes Needed for Official Action at Meetings of Advisory Commissions and Boards.”

ATTACHMENTS:

- Proposed Ordinance
- May 4, 2015 Study Session Minutes:
<http://www.ashland.or.us/Agendas.asp?Display=Minutes&AMID=5981>



ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 2.10.040 TO REVISE
STANDARDS FOR A QUORUM AND FOR NUMBER OF VOTES
NEEDED FOR OFFICIAL ACTION AT MEETINGS OF ADVISORY
COMMISSIONS AND BOARDS

Annotated to show ~~deletions~~ and **additions** to the code sections being modified. Deletions are **bold lined through** and additions are in **bold underline**.

WHEREAS, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

WHEREAS, The quorum currently required to hold an advisory commission or board meeting is more than one-half of the total number of authorized members, including any vacant positions.

WHEREAS, City advisory commissions and boards frequently have had to reschedule meetings due to unanticipated member absences.

WHEREAS, City Council has authority to modify the quorum requirements for the City's advisory commissions and boards and to set the minimum number of affirmative votes necessary to approve a commission or board action.

THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

SECTION 1. The above recitations are true and correct and are incorporated herein by this reference.

SECTION 2. AMC Chapter 2.10.040 is hereby amended to read as follows:

Section 2.10.040 Quorum and Effect of Lack Thereof

A meeting quorum shall consist of more than one-half of the ~~total~~ number of **authorized members of currently-serving council-approved appointees to** the body, ~~including any vacant positions~~. Non-voting ex officio members, staff and liaisons do not count toward the quorum. Members need not be physically present at a meeting if another means of attendance (e.g. telephonic, internet etc.) has been established by the membership and public meetings law

requirements are met. ~~At least a majority of the quorum is necessary to adopt any motion~~
Adoption of any motion requires the affirmative vote of at least three currently-serving voting members or a majority of the voting members in attendance, whichever is greater;
some motions require the affirmative vote of at least two-thirds of the members present. If the members in attendance do not constitute a quorum, staff or invitees may make informational presentations provided (1) Notes describing the presentations and discussions are made and posted on the City website; (2) no motion, debate or vote or any other official business other than adjournment takes place; and (3) all topics advertised are automatically added to the agenda for the next regularly scheduled meeting.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions, and text descriptions of amendments (i.e. Sections 3-4) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the ____ day of _____, 2015, and duly PASSED and ADOPTED this ____ day of _____, 2015.

Barbara M. Christensen, City Recorder

SIGNED and APPROVED this ____ day of _____, 2015.

John Stromberg, Mayor

Reviewed as to form:

David Lohman, City Attorney

**MINUTES FOR THE STUDY SESSION
ASHLAND CITY COUNCIL
Monday, May 4, 2015
Siskiyou Room, 51 Winburn Way**

Mayor Stromberg called the meeting to order at 5:29 p.m. in the Siskiyou Room.

Councilor Lemhouse, Morris, Seffinger, Rosenthal, Voisin, and Marsh were present.

1. Public Input (15 minutes maximum)

Louise Shawkat/870 Cambridge Street/Wanted to know when the Conservation Commission's plan to develop and implement a Climate Action Plan would go before Council.

City Administrator Dave Kanner responded the Conservation Commission would present the plan at the June 2, 2015 Council meeting.

2. Look Ahead review

City Administrator Dave Kanner reviewed items on the Look Ahead.

3. Options for rehabilitation of the Pioneer Mike statue

Historic preservation consultant George Kramer from Kramer and Company provided background on the Pioneer Mike statue dedicated October 1910 as a gift to the city from the Carter family through a \$1,000 donation. The statue has stood at the plaza for 115 years and removed twice. Once in 1969 when someone lassoed Pioneer Mike, pulled the statue down breaking the boots and one arm, and since October 2014 when someone broke the arm off in the same place. Southern Oregon graduate Ron Reinmiller repaired the damage that occurred in 1969 using fiberglass and epoxy and the statue returned to the plaza in 1972.

The statue was made of zinc and soldered together. Zinc was brittle and over time, repairs weakened the statue. There were four examples of Pioneer Mike in the country. Ashland's was the only one in exterior display. Out of four, only two remained. One was in Ashland and the other in Stone Lake IA. The City of Storm Lake experienced similar issues with their statue that resulted in recasting Pioneer Mike in bronze for exterior display. The original is on interior display at the Buena Vista Historical Society.

The statue was originally in contrapposto posture but repaired flatfooted in 1969 for additional stability.

There were two options. One was continue to repair the statue as needed and if Council chose that option, Mr. Kramer strongly recommended the City have a mold made. The other option was accepting the City of Storm Lake's offer to allow the City to send a mold-maker and model their bronze casting. The City would display the bronze replica at the plaza, repair the original, and display it at an interior location. Pioneer Mike was on the national register. The Oregon State Historic Preservation office was aware of issues with cast zinc statues and was comfortable with the City replacing the statue with a bronze replica.

Mr. Kramer referenced page 25 of his report and clarified costs. Repair damage for exterior installation was \$10,000 and \$1,500 for interior display. With fountain repair costs included, the Repair Option was \$35,500. The Replication option would cost \$47,000-\$57,000.

Council supported replicating the statue in bronze and repairing the original for interior display. Mr. Kanner noted there was one-time money in the budget for possible replication, \$8,500 from the insurance company, and the insurance company would pay the \$10,000 deductible. Council suggested looking at the fountain in front of the library that did not work and restoring the Abraham Lincoln statue in Lithia

Park. The Public Arts Commission and Historic Commission could do an inventory of the current statues and fountains in need of repair and make recommendations, including the replacement of Pioneer Mike with a bronze statue. Mr. Kramer and Council discussed not repairing the flatfooted original and keeping it as part of Ashland's story.

4. Discussion of City Recorder compensation and Charter amendment

Councilor Lemhouse explained this was City Recorder Barbara Christensen's final term and she would not seek re-election when it ended. Councilor Lemhouse stated that the discussion should be focused on whether the salary and the formula used to set the pay for the City Recorder position was right and if the position should continue as an elected position.

Council confirmed the City Charter dictated the formula for salary calculation and it would require an amendment to change the salary formula or change the position from elected to appointed. There were two other cities in Oregon with elected city recorder positions.

City Administrator Dave Kanner compiled position descriptions for the city recorder from cities in the state that closely matched the City of Ashland City Recorder job duties and city size. The City considered all forms of increased compensation that management and supervisory employees received when calculating the average increase and applied it to the recorder and municipal judge. Ashland's city recorder was not a classified employee and did not have a pay range with steps. Both the city recorder and municipal judge received a salary and did not get cost of living adjustments.

Council noted the technical requirements required of the recorder's office and there was no guarantee the City would get an elected recorder that matched Ms. Christensen's high quality, character, and ethics. Council discussed paying the position like a department head if the position remained elected. Alternately, this was an opportunity to modernize the position, make it appointed, and get input from Ms. Christensen on how it should look. Mr. Kanner clarified if Council wanted to refer a charter amendment he recommended not making it effective until the expiration of the current city recorder's term. Mayor Stromberg added having the amendment go into effect at the end of the current incumbent's term or whenever that incumbent left the position. Other comments suggested changing the position but retaining the elected status and addressing qualification concerns, have the city recorder's salary relate to department head salaries, not supervisor pay, and when the amendment passed, offer that pay increase to the current city recorder. Council wanted to review the pros and cons.

Mr. Kanner further clarified the top of range for a current city recorder was similar to what Ms. Christensen was earning. An analysis of the required duties and what that type of position was paid in comparison to other city positions, along with an analysis of comparable positions in similarly sized jurisdictions would result in the top salary range close to the current recorder's salary. He did not consider the recorder a department head position. The scope of resources affected by the position, independent judgment, and decision making factored into a classification did not justify treating the city recorder position as a department head. It was a confidential-administrative position below a senior management or deputy police chief role. Staff would need to do a comprehensive analysis to determine actual classification.

If Council decided to pursue changing the position to appointed, they could remove the city recorder language from the Charter and create the city recorder position through a code amendment. Mayor Stromberg added the investment policy side of the city recorder and city treasurer would go into the Finance Department. The intention was a clean transition with the current elected recorder's era ending with Ms. Christensen and moving into a classified position in the City. Mr. Kanner noted almost all city recorder positions reported to the city administrator or city manager.

Council was interested in knowing the reasoning behind the 1974 change. In 2002, Council did not recommend changing the city recorder position because Ms. Christensen did not support the change. This time Ms. Christensen supported looking into changing the position from elected to appointed. Other Council comments wanted to look at options regarding electing or appointing the position.

Mr. Kanner commented elected offices in the country were reserved for policymaking positions and the city recorder was not a policy making position. It was an administrative, professional, technical position that worked within a prescribed set of rules regarding public meetings and information, and records retention. The city recorder implemented the policy of state and local legislative bodies. The elected county clerk ran the elections. The county needed someone who could exercise independence in the running of an election. The Ashland city recorder filed paperwork for the elections and did not run them.

Staff would provide the pros and cons regarding whether to keep the position elected or appointed along with options that preserved the position but modernized it in the City Charter.

5. Discussion of quorum requirements for boards and commissions

City Administrator Dave Kanner explained the request to change the codified definition of a quorum came from the Public Arts Commission. Council considered changing the quorum in 2012 and at that time elected not to make that change. Public Arts Commission member Margaret Garrington further explained the Commission's difficulties filling the 7-member maximum. Typically, the Commission had four people, and currently had six. Other issues were meeting quorum requirements on a monthly basis.

Council suggested changing quorum requirements to mandate a minimum number of votes required to make a recommendation or pass a motion. Currently the Planning Commission had the final vote in a decision unless appealed. Other decisions by commissions ultimately went through Council, there would never be a time three commissioners could make a decision that was final. The quorum could have a minimum of three votes to make a recommendation. Council noted there were twelve commissions and three, the Public Arts, Transportation, and Tree Commissions had challenges getting members and suggested reviewing and improving recruitment processes. Possible other reasons for low recruitment could be attendance requirements or retaining the interest of commissioners and keeping the commissions working.

Council majority directed staff to bring back an ordinance lowering quorum requirements with a minimum amount of votes to establish an action. Opposing comments did not want to give staff direction regarding quorum and wanted to address the root cause of quorum issues instead. Council also wanted to know the methodology on recruitment, other strategies to gain interest in commissions, and have someone contact commission chairs for their input.

Meeting adjourned at 7:00 p.m.

Respectfully submitted,
Dana Smith
Assistant to the City Recorder