

# Council Study Session

November 20, 2017

<b>Title:</b>	Clarification of Council Rules	
<b>Item Type:</b>	Presentation	
<b>Requested by Council?</b>	Yes	
<b>From:</b>	David Lohman	City Attorney
	david.lohman@ashland.or.us	

## **Discussion Questions:**

This agenda item is intended to give Councilmembers the opportunity to clarify and modify, if appropriate, mutual expectations about procedural rules for Council study sessions and regular business meetings. Attachment A presents (1) eight questions proposed for discussion at this meeting; (2) some points Councilors may want to take into account as they address the questions; and (3) some alternative ways of answering the questions. Attachment B lists twenty more questions about meeting procedure that the Council may wish to discuss in future study sessions.

## **Resource Requirements:**

N/A

## **Suggested Next Steps:**

As time permits at upcoming study sessions, Council may wish to address the twenty additional questions in Attachment B, along with questions Councilors wish to have added to the list. Once agreement is reached on clarifications or revisions to Council rules of procedure, at future business meetings, staff will propose ordinance amendments needed to effect those changes or, perhaps, simple written interpretations of some rules.

## **Policies, Plans and Goals Supported:**

Council Goal 2: Promote effective citizen communication and engagement.

## **Background and Additional Information:**

Robert's Rules of Order serve as the default reference for meeting procedure rules. Over time, refinements or alternatives to Robert's Rules have been adopted to accommodate Ashland City Council's particular needs and circumstances.

In 2014, the Council rules were updated again. Since then, more ambiguities, uncertainties, and inconsistencies have surfaced and occasionally have become sources of confusion and even frustration. This agenda item, and similar ones to follow, is intended to give the Council an opportunity to identify problems with the current Council rules, reach agreement on interpretation of them, and determine whether more changes are in order.

Based on issues and questions about Council rules that have arisen since 2014, staff has identified 28 questions believed to be worthy of Council discussion for purposes of either clarification or revision. Council may wish to add more items to the list, merge some, or strike some off the list.

The questions are grouped into the following general topics: agendas; study sessions; deliberation rules; suspension of Council rules; Councilmember requests for information from staff; and miscellany.

Attachment A lists the first eight questions, which are about agendas and study sessions. Attachment A also includes “Points and Authorities” intended as starting points for discussion and, finally, possible alternative conclusions. Asterisked alternative conclusions are those the City Attorney recommends, but not for legal reasons. For the most part, City ordinances are the only legal constraints on the Council’s decisions about these rules.

Attachment B lists the next 20 questions for possible discussion at future meetings. Council will be asked whether the format used for the first eight questions should also be used for discussion of those remaining questions and whether the time it takes for full discussion of such procedural rules is warranted.

**Attachments:**

Attachment A: Eight Questions About Council Rules

Attachment B: Twenty Additional Questions About Council Rules

## ATTACHMENT A

### EIGHT QUESTIONS ABOUT COUNCIL RULES

#### AGENDAS

1. **Question:** Should contracts above a specified dollar amount be presented as individual matters for Council decision, as opposed to being included on the Consent Agenda?

Response: Council is free to decide this question by agreed-upon practice, by resolution, or by ordinance.

#### Points and Authorities:

- a. Currently, personal services contracts for more than \$75,000 and contracts for materials, supplies, equipment, public improvements, and services (other than personal services) for amounts greater than \$100,000 require Council approval (on the regular agenda or the consent agenda).
- b. In addition, contracts for amounts greater than \$5000 but less than the above Council-approval thresholds require solicitation of competitive proposals, except in the case of sole-source procurements, emergency procurements, or special procurements – all of which themselves require formal Council approval
- c. Most large-dollar contracts are public improvement projects which are approved by Council as part of the City's Capital Improvement Project list and often also as elements in Council-approved master plans.
- d. The Council Communications for Consent Agenda items are, or can be required to be, no less detailed than those for regular agenda items.
- e. Fewer Consent Agenda items likely would lead either to slightly longer business meetings or slightly less time for Council consideration of the individual items not on the Consent Agenda.
- f. Any Councilor can "pull" any Consent Agenda item to have staff make a presentation on it and have a separate Council vote on it.

#### Alternative Conclusions to Consider:

- a. \*Continue leaving it to the City Administrator to place items on the Consent Agenda based on his/her judgment call and leaving it to individual Councilors to "pull" items from the Consent Agenda if they feel additional attention is warranted.
- b. Direct the City Administrator to place any contract/procurement in excess of \$\_\_ and not previously approved in the budget and capital improvements on the regular business agenda.
- c. Direct the City Administrator place approval of any contract/procurement in excess of \$\_\_\_\_\_ on the regular business agenda.

2. **Question:** Should minutes of City advisory bodies be included in the Council agenda packets, along with a summary of which advisory bodies have met recently?

Response: Council is free to decide this question by agreed-upon practice, by resolution, or by

ordinance.

Points and Authorities:

- a. While current practice is to have Council approve the minutes of advisory bodies, there is no requirement to do so in either the Municipal Code or the City Charter, and not all advisory bodies have been in the practice of submitting minutes for Council review
- b. Currently, draft minutes (not yet approved by the advisory body) are not included Council agenda packets.
- c. More than a month can sometimes unavoidably elapse between the date of an advisory committee meeting and the subsequent meeting at which the minutes of a previous meeting get approved. Then, depending on when meetings of the advisory body occur in relation to meetings of the Council, more weeks can sometimes unavoidably elapse before those approved minutes can be included in a Council agenda packet.
- d. Currently, the City website shows the schedule for recent and upcoming meetings of advisory bodies, along with the draft or final versions of the minutes of recent meetings. The draft minutes are posted shortly after they become available, as are the final minutes after approval.
- e. A report in each Council agenda packet on recent advisory body meetings, including draft and/or final minutes of the meetings would require more staff time and potentially an earlier deadline for agenda packet submittals.
- f. It seems unlikely that most Councilors would have time to regularly read the additional agenda packet material on advisory body meetings.

Alternative Conclusions to Consider:

- a. Direct staff to include draft or final minutes (depending on which is currently available) of City advisory bodies in the Council agenda packets, along with a summary of which advisory committees met recently.
- b. \*Direct staff to (1) see that the City website contains a readily accessible, one-button access to information on recent and upcoming meetings of City Advisory bodies, including draft or final minutes, and (2) include with each Council agenda a hyperlink to the City webpage through which such information is available.
- c. \*Direct staff to require timely website posting of minutes after they have been approved.

3. **Question: During a Council meeting, under what circumstances should the scheduled order of a meeting agenda be altered?**

Response: The order of the agenda can be changed at the discretion of the presiding officer. The Council can approve a motion to rearrange the order of agenda items, but the Mayor need not comply.

Points and Authorities:

- a. The regular order of the agenda for Council business meetings is established by AMC 2.04.050: Roll Call; Approval of Minutes of the Previous Meeting; Special Presentations, Proclamations and Awards; Public Forum; Consent Agenda; Public Hearings; Public Testimony on Agenda Items; Unfinished Business; New Business; Ordinances, Resolutions and Contracts; and then Other Business from Councilmembers.

- b. AMC 2.04.050 says “the Mayor or presiding officer may change the order of business on the agenda.”
- c. At some Council meetings, not following the regular order of the agenda can mean citizens expecting to be able to address or hear about an item scheduled for early in the meeting become frustrated.
- d. At some Council meetings, following the regular order of the agenda can mean citizens in attendance solely to address or hear about an item near the end of the agenda have to wait a long time for the chance to be heard, while also recognizing that the agenda item possibly could get postponed to a subsequent meeting.
- e. Pursuant to Robert’s Rule of Order §18, an individual Councilor can require adherence to the scheduled agenda by interrupting whomever has the floor to “Call for the Orders of the Day.” This “privileged motion” takes precedence over main motions and subsidiary motions, does not require a second, is not debatable or amendable, and prevails unless two-thirds of those voting wish to set aside the scheduled agenda.

Alternative Conclusions to Consider:

- a. Continue leaving it to the presiding officer to make a judgment call on changing the regular order of business depending on circumstances and leaving it to Councilors to utilize appropriate parliamentary procedures to reverse a contemplated modification of the regular order.
- b. \*Establish an agreement among Councilors and the Mayor to adhere to the regular order of meeting agendas except in very rare circumstances and after approval by a majority of the Council. Such a protocol could be left informal or enacted by resolution or ordinance.
- c. Revise AMC 2.04.050 to remove the authority of the Mayor to alter the regular order of an agenda and make such a change possible only after suspension of Council rules by two-thirds of those voting.

4. Question: **During a Council meeting, how should a Councilor go about adding an item to the agenda?**

Response: During a meeting, a Councilor may move to add an item to the agenda for that meeting (or a future meeting). In the normal order of business, a motion to add an item to an agenda should be made at the time designated for “Other Business from Council Members.” But the Mayor could change the order of business so as to take up the motion to add the item earlier in the meeting. If the motion to add an item to the current meeting’s agenda receives a second, any debate, and majority approval, the item normally would be placed in the “Other Business from Council Members” section of the agenda. The Mayor, however, could decide to modify the order.

Points and Authorities:

- a. AMC 2.04.030D says the following about agenda additions during a meeting, “A topic may be added to the agenda by a majority vote of the Councilors present. Generally, these items should be limited to items of timeliness or emergencies.”
- b. While the above admonition to limit last-minute agenda additions to unusual circumstances is not a strict requirement, it serves as a reminder that under public meetings law the public should get advance notice of topics to be addressed unless unexpectedly urgent action is called for.

- c. Concerning the notice requirement for public meetings, ORS 192.640(1) says, “The notice shall include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.”
- d. The Attorney General’s Public Meetings manual says, “the Public Meetings law does not require that every proposed item of business be described in the [public] notice.” Page 121.
- e. After a citizen presents a matter to the Council during Public Forum, a Councilor may move to place the item on the current meeting agenda (or a future agenda), subject to admonition above to limit last-minute additions urgent matters.
- f. Adding Council decision on an issue to the current meeting’s agenda may catch citizens with an interest in that issue by surprise, effectively depriving them of an opportunity for face-to-face input to the Council.

Alternative Conclusions to Consider:

- a. \*Retain the current rules for adding an agenda item during a meeting.
- b. Before considering the addition of an agenda item to a current meeting, require a successful motion to adopt a finding justifying urgent action (analogous to requiring a declaration of emergency before foregoing normal procedures).

5. **Question: Outside of a meeting, how should a Councilor go about getting a matter added to an upcoming meeting agenda?**

Response: An individual Councilor can get matter added to a future Council meeting agenda by making a timely written request to the City Administrator, unless the item requires more than two hours of preparation by staff – in which case consent from a majority of the Council at a Council meeting is required.

Points and Authorities:

- a. For a matter to be added to the agenda for an upcoming meeting, the proposed addition is to be delivered to the City Administrator no later than noon of the Wednesday preceding the meeting. AMC 2.04.030B(1).
- b. Unless the City Administrator determines the topic is not timely or the agenda for the proposed meeting is already full, the City Administrator’s response to the Councilor’s proposal must be to put the matter on the agenda as proposed, and make an initial determination as to where in the Council agenda it is to appear. AMC 2.04.030A.
- c. The Mayor may also defer the matter until a later meeting if the agenda of the target meeting is already lengthy or if, in the Mayor’s sole judgment, the matter is not time sensitive. But in no case may the Mayor defer the item more than 3 months beyond the date proposed by the Councilor submitting the item. AMC 2.04.030B(1).
- d. Having made such a request, the requesting Councilmember is to submit to the City Administrator any materials for Council consideration prior to finalization of the Council packet. *Id.*
- e. Requiring a matter to be added to an agenda at the behest of just one Councilor may cause the Council to spend time on a matter of little or no interest to other Council members.

- f. It seems inconsistent to require consent of the Council majority if a Councilor wishes to add an agenda item during a Council meeting while allowing a lone Councilor to add an agenda item if the proposal is made outside of a Council meeting.
- g. As noted in items 7 and 8 below, standard parliamentary procedures exist for removal from the agenda of an item of little interest to other members.

Alternative Conclusions to Consider:

- a. Continue the current rules for adding an agenda item outside of a meeting.
- b. \*For a Counselor to add an item to an upcoming agenda, require consent from at least at least one additional Councilor.

6. Question: **How should a citizen go about getting a matter added to a Council meeting agenda?**

Response: A citizen should make the request to any Councilor or the Mayor or City Administrator or to a City advisory board, commission, or committee or make the request as part of testimony during Public Forum.

Points and Authorities:

- a. Items can be placed on a Council meeting agenda not only by the procedures described in questions 5 and 6 above, but also by the City Administrator, City Attorney, Mayor, and City boards, commissions, and committees. AMC 2.04.030B(1).
- b. If the purpose of the proposed item is to acknowledge special recognition and awards given to the City or present proclamations which serve to encourage and educate the community, a citizen can submit to the Mayor a written request include the item under the portion of the business meeting agenda reserved for Special Presentations, Proclamations and Awards. AMC 2.04.050C.

Alternative Conclusions to Consider:

- a. \*Retain the current means for an individual citizen to get a matter added to a Council meeting agenda.

7. Question: **How should a Councilor seek removal or postponement of a scheduled agenda item?**

Response: Before or at the outset of consideration of a matter, a Councilor may “object to consideration of the question.” After consideration of a matter has begun, a Councilor may “move to postpone the matter to a certain time” or “move to postpone the matter indefinitely.” These are efficient, respectful parliamentary mechanisms for deferring and agenda item which is believed to be not yet ripe for consideration.

Points and Authorities:

- a. A successful objection to consideration of a matter prevents its consideration for the rest of the meeting. The objection may be made even while another person has the floor; must be addressed to the Chair (unless it is the Chair who raises the objection); does not require a second; is not debatable or amendable; and requires a “no” from at least two thirds of those voting in order to prevent consideration of the subject agenda item. AMC 2.04.040C(4)(b)(3).

- b. A successful motion to postpone a matter defers its consideration to a particular future meeting. The motion requires a second; is debatable and amendable; and passes upon a majority vote in favor. AMC 2.04.040C(4)(j).
- c. A successful motion to postpone a matter indefinitely prevents its consideration for at least the rest of the meeting without identifying any future date for consideration. The motion requires a second; is debatable but not amendable; and passes upon a majority vote in favor. AMC 2.04.040C(4)(k).

Alternative Conclusions to Consider:

- a. \*Retain the current means for postponing a scheduled agenda item.

**STUDY SESSIONS**

8. **Question: Should/could Study Sessions be made more useful by treating them less like briefings and more like sessions for interactive exploration of key topics, adopting minimal formalities for presentations to and questioning of staff and for discussion among Councilmembers?**

Response: Yes, probably.

Points and Authorities:

- a. Study Sessions often fall short of being thorough examinations of the key questions about topics on the agenda.
- b. Responding to strongly-worded advocacy sometimes takes precedence over deep, objective exploration of topics.
- c. Councilors may state positions on a topic, but seldom are their positions subjected to critical analysis or debate.
- d. Staff are often reluctant to raise questions or doubts about Councilors' statements in order to avoid effrontery or perceived disrespect.
- e. Councilors are sometimes reluctant to raise questions or doubts about other Councilors' statements, perhaps to preserve collegiality, composure, or flexibility to modify views as new information surfaces.

Alternative Conclusions to Consider:

- a. \*Encourage free-flowing, unstructured colloquy among Councilmembers and relevant staff and consultants.
- b. Try dividing major agenda items into 5 steps: (1) staff or consultant presentation of key facts; (2) identify key questions through group discussion; (3) use brainstorming techniques to generate conceivable answers to the key questions, refraining from evaluation or rebuttal; (4) evaluate, prioritize, and refine responses to key questions; and (5) use brainstorming techniques to identify information still needed before making a final decision.
- c. \*Limit public input at Study Sessions to Public Forum comments on agenda items only.
- d. \*Resume holding Study Sessions in the Siskiyou Room to better preserve an intimate, informal atmosphere.
- e. \*Try not televising Study Sessions.
- f. Retain 5:30 pm start time for Study Sessions, but provide healthy snacks to enhance conviviality and sustain energy despite delayed dinner.

## ATTACHMENT B

### TWENTY ADDITIONAL QUESTIONS ABOUT COUNCIL RULES

#### STUDY SESSIONS (continued)

9. Should Council be precluded from making decisions at Study Sessions?

#### COMMENTS/PRESENTATIONS FROM MEMBERS OF THE PUBLIC

10. Should a person speaking before the Council be required to state his or her street address?
11. Should Public Form ever be extended beyond 15 minutes and, if so, how?
12. How should the time limit on speakers at Council meetings be determined?
13. At what point during consideration of a scheduled agenda item, should members of the public be invited to present their views on the item?
14. If a person goes to the trouble to provide public input on a matter, should the Council respond to that input immediately after? During Council's deliberation on the matter?
15. Should follow-up questioning of speakers be permitted without suspension of Council Rules?
16. Following a presentation to Council from staff or an invitee, should members of the public be permitted to direct arguments or questions to the presenter?
17. If discussion of an agenda item begins in one meeting and is continued to a subsequent meeting, should a member of the general public who spoke before the Council at the first meeting have opportunity to speak before the Council on the same topic at the subsequent meeting?
18. Should a citizen's wish to testify on a matter on the Consent Agenda automatically cause the item to be pulled from the Consent Agenda for separate consideration by the Council, including public testimony?

#### DELIBERATION RULES

19. Should every Councilor get a "turn" to speak on an issue before any Councilor gets a follow-up turn?

#### SUSPENSION OF COUNCIL RULES

20. Should the list of rules that Council can suspend be expanded?
21. How should a Councilor seek a suspension of Council rules?
22. Does suspension of the rules always require a formal vote?

#### COUNCILMEMBER REQUESTS FOR INFORMATION FROM STAFF

23. Outside of a meeting, how should a Councilor go about getting information from staff if the request likely to require no more than two hours of staff time? If the request is likely to require more than two hours of staff time?
24. How should an employee handle a request for information that is likely to require more than 2 hours of staff time?
25. Is the two-hour rule appropriate?
26. Should the staff's response to a Councilor's inquiry always be sent to all Councilmembers?

#### MISCELLANY

27. Should individual Councilors serve as Council liaisons to the various City departments, similar to their roles as liaisons to City advisory bodies?
28. Could changes be made to the Look Ahead to enhance its usefulness to Councilmembers?