

# Council Study Session

August 19, 2019

<b>Agenda Item</b>	Council Practices and Protocols	
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<b>Item Type</b>	Requested by Council <input checked="" type="checkbox"/> Update <input type="checkbox"/> Request for Direction <input type="checkbox"/> Presentation <input type="checkbox"/>	

## **SUMMARY**

The purpose of this agenda item is to review previous Council decisions on the Council’s operating procedures and determine whether any adjustments should be made.

## **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 the Council-preferred practices. The questions presented for discussion were 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](#).

Depending on how the Council chose to resolve these procedural questions, updates to ordinances or resolutions might have been required. As it turns out, the practices agreed upon did not conflict with or require modifications of existing ordinances or resolutions. While they feasibly could be incorporated into the Ashland Municipal Code, staff proposes that these “rules” be titled “Council Practices and Protocols” and be retained as unofficial guidance for the Presiding Officer and Councilors. This would allow flexibility to modify them or temporarily suspend them as circumstances require. These Council Procedures and Protocols could then serve to set mutual expectations but also allow for considerable flexibility. Such flexibility is limited, however, when an agreed upon Council procedure happens to have been already covered in the Municipal Code, which is the case for several of these Practices/Protocols.

The principal goal of this August 19 Study Session agenda item is to foster shared understanding of Council operating procedures. Since some current Councilmembers were not on the Council at the time these operating procedures were discussed, one of the goals of this Study Session is to highlight these procedures and determine whether the Council now wishes to affirm or revise previous conclusions about them. Another goal is to determine whether the Council wishes to address a few other, similar questions about Council procedures.

## **FISCAL IMPACTS**

N/A

## **DISCUSSION QUESTIONS**

1. Do the attached Council Practices and Protocols reflect the current Council rules preferred procedures?
2. Given that the following previously-approved Council Practices and Protocols are not being strictly observed or still generate uncertainty, does the Council wish to reconsider any of them?
  - A(6) Presentation slides in advance?
  - B(1)(b) Try out roundtable seating at Study Sessions?
  - B(1)(d) Executive sessions preferred *after* Study Sessions?
  - B(1)(f) Public Forum topics limited to those on the agenda?
  - B(3) Summary of next steps for each Study Session agenda item?
  - C(4) Follow-up questions after public testimony?
  - C(8) Written guidelines for public input?
3. Does the Council wish to address particular additional procedural questions in future sessions, possibly including those below?
  - How should the Legal Department respond to citizens' legal assertions?
  - Does 5:30 PM to 7 PM generally allow sufficient time for two or more Study Session topics?
  - What is Council's role in hiring department heads? Other departmental staff?

## **SUGGESTED NEXT STEPS**

Depending on the Council's answers to the questions above, portions of future Study Sessions could be utilized for addressing them.

## **REFERENCES & ATTACHMENTS**

Attachment 1: Council Practices and Protocols Handbook (08/13/19 version)

# COUNCIL PRACTICES AND PROTOCOLS HANDBOOK

(08/13/19 Version)

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# A. AGENDAS

## 1.) Consent Agenda

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

The City Administrator should place approval of any contract/procurement in excess of \$100,000 on the regular business agenda.

## 2.) Minutes of Advisory Bodies

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

Minutes for all standing and ad hoc advisory bodies are available on the opening page of the City website by clicking on the “City Commissions” tab or by clicking “Agendas and Minutes” in the Quick Link section of the homepage and using the “view by” drop down box to select the desired commission, committee, or board. Minutes are to be posted on the website shortly after each meeting whether approved or in not-yet-approved draft. Electronic versions of agendas for regular City Council meetings include an item providing hyperlinks to the minutes for each standing board or commission.

## 3.) Agenda Order

During a Council meeting, under what circumstances should the scheduled order of a meeting agenda be altered?

Councilors and the Mayor should adhere to the regular order of meeting agendas except in rare circumstances and only after approval by a majority of the Council.

#### **4.) Adding Agenda Items**

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

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 take up the motion to add the item earlier in the meeting when appropriate, in order to recalibrate expectations for 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. *AMC 2.04.030C*

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

An individual Councilor can get a 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. *AMC 2.04.030B*

**c.) How should a citizen go about getting a matter added to a Council meeting agenda?**

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.

**5.) Removing Agenda Items.**

**During a Council meeting, how should a Councilor seek removal or postponement of a scheduled agenda item?**

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 parliamentary mechanisms for deferring an agenda item which is believed to be not yet ripe for consideration. *AMC 2.04.040C.4.b(3); 2.04.040C.4.j and k.*

**6.) Presentation Slides.**

**Should the pre-meeting Council packet include any presentation slides to be shown at the following week’s meeting?**

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

## B. STUDY SESSIONS

### 1.) Miscellaneous Study Session Protocols

- a) Study Sessions should be televised and held at Council Chambers.
- b) A more roundtable-like seating arrangement for Study Sessions at Council Chambers should be tried on a provisional basis to determine whether such an arrangement would further informal, wide-ranging, and inclusive dialogue.
- c) Study Sessions should begin at 5:30 p.m. on the Mondays before Tuesday business meetings. Unless a majority votes to extend an additional 30 minutes, Study Sessions should conclude no later than 7:00 p.m.
- d) The preferred time for any Executive Sessions is just after adjournment of Study Sessions.
- e) The Look Ahead need not be presented as an agenda item at Study Sessions; instead, it should be distributed in advance via email, allowing Councilmembers to ask about particular planned future agenda items either before or at a Study Session.
- f) Public Forum presentations at a Study Session be limited to topics on the agenda for that Study Session. *AMC 2.04.020C.2*
- g) Councilmembers should be allowed unlimited time for follow-up dialogue with and exploratory questioning of presenters after presenters have used up their allotted time.

## 2.) Decisions at Study Sessions

**Should Council be precluded from making decisions at Study Sessions?**

- a) Study Sessions should be for providing Councilmembers background information and providing staff a rough sense of Councilmembers' interests and concerns about impending public issues.
- b) In *AMC 2.04.020C.1*: "Study sessions are for Council members to receive background information and recommendations from staff or invitees with expertise on City business; to ask questions, discuss options, express their individual views on matters that may be voted on in subsequent Regular or Special Meetings and to provide guidance to staff. The Council may vote in Study Sessions on guidance to staff concerning matters to be presented to Council for decision at subsequent meetings. By consensus, the Council also may direct staff to take action on other matters that do not require Council decision by ordinance or resolution...."
- c) In brief, provisional deliberations and decisions, including motions on directions to staff, are allowable at Study Sessions, but final decisions about resolutions, ordinances and policies are to be made at Regular business meetings.

## 3.) Summations

**Should someone (the Mayor or City Administrator) be responsible for providing a summary of action taken/direction given at the end of each Study Session agenda item?**

Yes

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

### **1.) Presenter Identification**

**What personal information should a person speaking before the Council be required to provide?**

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

### **2.) Time Limits on Presentations**

**How should time limits on speakers on scheduled agenda items be determined.**

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

### **3.) Public Input on Agenda Items**

**At what point during consideration of a scheduled agenda item, should members of the public be invited to present their views on the item?**

Following staff’s initial presentation on an agenda item and Councilmembers’ opportunity to ask staff clarifying questions, members of the public should be invited to present their views. Next, Council may put to staff or invited “experts” any additional clarifying questions. Then Council should begin deliberation on the agenda item, either in the form of general colloquy or in the form of specific motions and debate. During this period of Council deliberation, members of the staff or invited “experts” may present additional

information to the Council in response to a specific request from a Councilmember; during such Council deliberation, additional testimony from members of the public should be allowed only after a successful motion to suspend the rules. Any such questions and responses to and from non-Councilmembers allowed during Council deliberation should be to provide clarification of facts, and not to present argumentation or advocacy.

a.) **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?**

If a citizen signs up at a regular business meeting to testify on an item on the Consent Agenda, Council should hear the testimony on the item before voting on it. Such testimony should be heard at the outset of the Consent Agenda portion of the meeting. After the testimony, a Councilor may or may not ask that the subject agenda item be pulled from the Consent Agenda for separate Council consideration and voting.

**4.) Responses to Public Input**

**How should Council respond to public input?**

Follow-up questions or responses by Councilmembers should be allowed without suspension of the rules only (1) in Study Sessions; and (2) when the speaker is a staff presenter, or a subject matter expert invited by staff or Council to make a presentation. Follow-up questions or responses by Councilmembers should not be allowed with respect to testimony by members of the public during Public Forum or during testimony on agenda items except in unusual circumstances and after suspension of the rules. However, Councilmembers or City staff may be recognized by the presiding officer following testimony by members of the public for purposes of correcting for the record misleading errors in a purported statement of fact.

## 5.) Inquiries During Public Input.

**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?**

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

## 6.) Renewed Public Input.

**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?**

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

## 7.) Responses to Written Public Input

**How should Councilmembers and staff respond to citizens' correspondence sent directly to the entire Council? Sent to the City Administrator or the department director with copies to the entire Council? Sent to the City website? Sent Directly to an individual Councilmember?**

- a.) If citizen correspondence is addressed to just one Councilmember and appears to seek a response from just that individual Councilmember -- even though others may be copied on the correspondence -- the addressee should decide how best to respond. Staff should respond only upon request from the Councilmember and, if so, should send copies of the response to all Councilmembers.
- b.) If citizen correspondence is addressed to two or more Councilmembers and appears to seek a response from each Councilmember recipient, the City Administrator will (a) provide a responsive reply directly to the citizen if the subject matter is within the scope of City administration and will send copies of the reply to each Councilmember; or (b) notify citizen and the Councilmembers that the correspondence concerns policy matters and that individual Councilmembers may or may not reply as appropriate and as time permits.
- c.) If citizen correspondence seeking a response is addressed to the City Administrator or a Department Director, the recipient should respond directly to the correspondent and provide copies to the entire Council, whether or not all the Councilmembers received copies of the correspondence.
- d.) If citizen correspondence is sent to the City website or is posted on social media so as to alert the City Administrator to its presence and clearly seeks a response, the City Administrator will see that the correspondent receives an appropriate response from City staff, with a copy to the entire Council.
- e.) For citizen correspondence on Parks matters, the APRC Director or the Parks Commission will have responsibility for deciding how best to respond and provide copies to City Councilmembers and the City Administrator as appropriate.

## 8.) Guidelines for Public Input

**Should the Council adopt formal guidelines for those attending and making presentations at Council meetings?**

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

## D. COUNCIL DELIBERATION RULES

### 1.) Taking Turns

**Should every Councilor get a “turn” to speak on an issue before any Councilor gets a follow-up turn?**

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

### 2.) Negative Personal Comments

**How should negative personal remarks about any person in public meetings or emails be handled?**

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

### 3.) Suspending Rules.

#### How should a Councilor seek a suspension of Council rules?

Suspension of the rules can be achieved by a two-thirds affirmative vote on a motion to “suspend the rules in order to....” No debate or amendment is allowed, but a second is required and the Councilor making the motion can provide a brief justification.

*Robert’s Rules of Order Newly Revised, 11<sup>th</sup> Edition (RONR), Section 25, pp. 260-62. AMC 2.04.0410E allows only the following nine rules in AMC 2.04 to be suspended without enacting an ordinance:*

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

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

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

## E. COUNCILMEMBER REQUESTS TO STAFF FOR INFORMATION OR ACTIONS.

### 1.) Council Requests to Staff

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?

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

## 2.) Staff Responses to Councilor Requests

How should an employee handle a Councilor's request for information that is likely to require more than two hours of staff time?

- a) If the request is for readily available information, the employee should promptly provide the requested information and inform the employee's superior of the Councilor's request and the information provided.
- b) If an employee receives a Councilor request for input that likely would require fewer than two hours to produce, the employee should respond as follows:
  - i. Employee should provide the Councilor an estimate of the time required to produce the response and seek an agreement on how soon the response can be provided.
  - ii. Employee should forward the requested information to his/her supervisor for transmittal to the Department Head, who should be the one to transmit the information to the requester and also share the information with the City Administrator.
- c) When an employee receives a Councilor request for input that likely would require more than two hours to produce, the following steps should be taken:
  - i. Employee should provide to the requester an estimate of the time required over and above the time staff would otherwise be spending on the underlying matter in any event.
  - ii. Employee should remind the requester that a management policy directs employees to forward to the appropriate Department Head any Councilor request to which a meaningful response is likely to take more than two hours of staff time.
  - iii. The Department Head should ask the Mayor, City Administrator, or City Attorney to approve providing a

response to the request or to add to an upcoming meeting agenda a question as to Council direction on whether and to what extent staff time should be devoted to responding to the request.

- d) Staff should provide all the Councilmembers copies of any responses to a Councilmember's inquiries or suggested guidance.

### **3.) Pre-Meeting Councilmember Communications with Staff.**

**Should Councilmembers contact staff with questions or concerns about agenda items for upcoming meetings in advance of the meetings?**

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