



CITY OF WASHINGTON, ILLINOIS
Committee of the Whole Agenda Communication

Meeting Date: June 8, 2020

Prepared By: Ray Forsythe, City Administrator; Derek Schryer, City Attorney

Agenda Item: Proposed Code Amendment: Chapter 31

Explanation: Staff was directed at the May 11, 2020 Committee of the Whole meeting to collect written comments from Alderman concerning the proposed amendment to Chapter 31 of the City Code. Since some Alderman at the Committee of the Whole meeting verbally expressed reservations of the need to amend Chapter 31, Staff decided it was advisable to copy the written comments received from Alderman into the appropriate sections of the proposed Ordinance and invite further discussion from Council before Staff resources were used to prepare a modified Ordinance.

Fiscal Impact: A negotiated fee for the City Attorney to attend the City Council meetings has been established at \$330/meeting. Sufficient funds are budgeted for Legal Fees and no budget amendment is anticipated.

Recommendation/

Committee Discussion Summary: Committee of the Whole is seeking additional Council feedback.

Action Requested: Approval of the Code Amendment.

Additional Documentation Attached: Proposed Code Amendment

ORDINANCE NO. _____

Synopsis: Adoption of this ordinance would provide a mechanism for individual City Council members to bring initiatives forward and incorporate the City Council's Rules of Procedure into the City Code.

**AN ORDINANCE AMENDING CHAPTER 31 ENTITLED "CITY COUNCIL" OF THE
CODE OF ORDINANCES OF THE CITY OF WASHINGTON, TAZEWELL COUNTY,
ILLINOIS**

WHEREAS, the Code of Ordinances of the City of Washington (the "Code") does not currently provide for a mechanism for individual City Council members to bring initiatives forward; and

WHEREAS, the Rules of Procedure adopted by the City Council in 1983 were never made part of the Code of Ordinances of the City of Washington; and

WHEREAS, the City Council has determined that it is in the best interest of the City to amend the Code to provide a mechanism to bring initiatives forward and to incorporate their Rules of Procedure into the Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF WASHINGTON, ILLINOIS**, as follows:

GENERAL COMMENTS

ALDERMAN COBB: I think there are several items in this proposal that are duplicated in another location within our current Code.

ALDERMAN BLACK: In regards to the sections of the proposed ordinance, there are several things that duplicate information between various sections in Chapter 31. My recommendation for the time being would be to continue to utilize Chapter 31 as is for now.

How does somebody go about finding all of the resolutions that are related to procedure? For the newly elected (now and in the future) I think this type of information on City standard operating procedure would be very helpful.

What (if anything) do we need to do about the conflicting information between the 1983 resolution and the existing Chapter 31? Since the 1983 resolution was passed, what does that mean as far as the process we follow in general? Is this just framework for how we do business, but allows us to vary as necessary? Are we held to this resolution just as we would be an ordinance?

Section 1. That § 31.11 detailing City Council Meeting Agenda Items and Voting be inserted as said section:

"§ 31.11 CITY COUNCIL MEETING AGENDA ITEMS AND VOTING

- (A) Agenda items. In accordance with this section, items can be placed on a City Council meeting agenda by: (i) the Mayor; (ii) the intended Chairperson of the meeting, ~~in the absence of the Mayor;~~ [Alderman Cobb] (iii) the City Administrator or designee thereof; or (iv) by the Agenda Initiative process.
- (B) Regular meeting agendas. For each regular meeting of the City Council, the City Administrator shall be responsible for placing items on the agenda he or she believes to be in the best interests of the City. Initiatives of the City Council may also be placed on the agenda after following the process set forth in Subsection C below. While the Mayor reserves the right to direct the placement of items on a regular meeting agenda, the Mayor shall utilize the agenda initiative process outlined in Subsection C in relation to any non-routine City matters or proposals.
- (C) Agenda initiatives. An agenda initiative is a proposal of the Mayor or a Council member that involves, for example: (1) the expenditure of money not within the City budget; (2) modifications to the City Code; (3) formation/modification of City policies; (4) the introduction of an ordinance or resolution; (5) the formation/modification of committees; and/or (6) appropriating City staff time from an existing operational activity or need. All agenda initiatives shall be on an Agenda Initiative Form completed by either the Mayor or individual Council member supporting the initiative. The form shall be derived by the City Administrator and must specify the nature of the request, the estimated cost and/or staff time (if known), and what, if any, existing projects or programs are proposed to be reduced in lieu of the new project. A portion of each meeting of the Committee of the Whole shall be dedicated to the agenda initiatives of the Council members and/or Mayor, if any. The Agenda Initiative Form, once completed and timely submitted, will be included in the meeting packet. At the Committee of the Whole meeting, a majority of the Aldermen present can vote to: (1) have the initiative placed on a future City Council agenda for further consideration or action; (2) have staff evaluate and prepare an analysis on the proposed initiative and bring it back for further Council discussion; (3) direct the matter to be considered by an appropriate Committee for consideration and recommendation; or (4) deny the initiative being placed on a future agenda and/or having City staff evaluate and analyze the proposed initiative. The same agenda initiative cannot be brought forward more than once in a six-month period unless two-thirds of the City Council votes to place the agenda initiative back on the table for consideration.”

-ALDERMAN COBB : I do not believe any list should be given because it gives the perception that this is an exclusive list when I do not think that is the intention.

-ALDRMAN COBB: Where is the proposed form? What does it look like? Do modifications have to be approved through Council?

ALDERMAN COBB: I feel this section creates too much work for staff and should be removed or simplified. For example it could say Prior to a regularly scheduled meeting The Mayor or any three (3) alderman may direct the City Administrator to place an item on the City Council agenda for discussion at the next regularly scheduled meeting if the request was made in a timely manner or during a regularly scheduled council meeting The Mayor or any alderman may propose an item to be placed on the next regularly scheduled meeting agenda for discussion if such proposal is supported by (2) other

alderman. After last night's discussion it sounds like a process for council members to get items on the agenda already exist, although it has not been used under the order of business item (iv) Review Agenda -Deletions or Additions (Discussion Items Only). Therefore I do not think we need to make any modifications if the purpose of this is just to define how an agenda item gets placed on the agenda.

ALDERMAN BLACK: When I was elected, I was told that to initiate discussion, comments and motions could be made in the Alderman's comments portion of the agenda. I had heard this from IML, other alderman or trustees in different cities, and other board members. Based on the discussion at the 5/11 COW, it sounds like the right way to handle discussion topics is to make a motion for discussion during section IV of the agenda. If that is the case, and everyone is agreeable to that, I don't see a need to implement the ordinance.

ALDERMAN STEVENS: Would propose using the Naperville procedure:

Future Agenda Items: Items may be placed on a future agenda in either of the following ways:

-Prior To A City Council Meeting: The Mayor or any three (3) Council members may direct the City Manager to place an item on the City Council agenda for consideration if the request is timely made; or

-During A City Council Meeting: The Mayor or any member of the City Council may propose an item be placed for discussion on an agenda at a future City Council meeting if such proposal is supported by three (3) members of the City Council.

Section 2. That § 31.12 detailing City Council Rules of Procedure be inserted as said section:

“§ 31.12 CITY COUNCIL RULES OF PROCEDURE

(A) General Rules and Public Officials.

- (1) Meetings to be Public: All official* meetings of the Council shall be open to the public. The journal of proceedings shall be open to public inspection. *Except where State Statutes allow closed meetings for certain limited topics.
- (2) Quorum: A Majority of the members of the Council shall constitute a quorum and be necessary for the transaction of business. If a quorum is not present, those in attendance will be named and they shall adjourn from time to time, and may compel the attendance of absentees, under whatever penalties, including a fine for a failure to attend, the Council may prescribe by ordinance. (Section 31.04)
- (3) Journal of Proceedings: An account of all proceedings of the Council shall be kept by the City Clerk and shall be entered in a book constituting the official record of the Council.

- (4) Ordinances: Confined to One Subject; Exceptions: No Ordinance except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code, or an ordinance adopting a code of ordinances, shall relate to more than one subject, which shall be clearly stated in its title.
- (5) Right of Floor: Any member desiring to speak shall be recognized by the Chair, and shall confine his or her remarks to one subject under consideration or to be considered.
- (6) City Administrator/Budget Officer: The City Administrator shall attend all meetings of the Council and shall have the right to take part in all discussions of the Council, but shall have no vote. (Section 30.35, appointed officials) The City Administrator may be appointed as Budget Officer and be responsible for the duties. (Section 30.36)
- (7) City Attorney: The City Attorney shall attend all meetings of the Council unless excused and shall, upon request give an opinion, either written or oral, on questions of law. (Section 30.38, appointed officials)
- (8) City Engineer: The City Engineer shall attend all meetings of the Council unless excused. (Section 32.023, appointed officials)
- (9) City Treasurer: The City Treasurer shall be elected at the time of the Mayor and shall be responsible for the duties as set in Section 30.22.
- (10) City Clerk/City Collector: The City Clerk shall attend all meetings of the Council unless excused and shall keep the official journal (minutes) and perform such other duties as described in Section 30.21. The Clerk may also be appointed as City Collector and be responsible for the duties as described in Section 30.37.
- (11) Officers and Employees: Department heads of the City, when there is pertinent business from their departments on the Council agenda, shall attend such Council meetings upon request of the City Administrator.
- (12) Rules of Order: All proceedings of the Council not specifically provided for shall be in accordance with "Roberts Rules of Order." (Section 31.07)

(B) Types of meetings.

ALDERMAN BLACK: Chapter 31.03.A.2 covers this [items 1-4] already, but differs. I assume the 1983 resolution was to provide some sort of standard on how to handle business.

- (1) Regular meetings: The Council shall meet in the Council Chambers or other designated location for regular, adjourned and special meetings. The regular council meetings are to commence at 6:30 p.m., on the first and third Monday of each month, unless otherwise specified by Ordinance. (Section 31.03)
- (2) Special Meetings: Special meetings may be called by the Mayor or by any three members of the Council. The call for a Special meeting shall be filed with the City Clerk in written form except that announcement of a special meeting, during any regular

meeting at which all members are present, shall be sufficient notice of such special meeting. The call for a special meeting shall specify the day and hour of the Special meeting and shall list the subject(s) to be considered. No special meeting shall be held until at least forty-eight hours (48) after the call is issued. Only such business may be transacted at a special meeting as may be listed in the call for said meeting or an incident thereto.

- (3) **Committee of Whole Meeting:** The Council may meet informally in Committee Meeting (open to the public), at the call of the Mayor or of any three members of the Council, to review forthcoming programs and projects, or receive other similar information from the City Administrator and/or Department Heads, provided that all discussions and conclusions thereon shall be informal.
- (4) **Closed Meetings:** Closed meetings may be held in accordance with the provisions of the State Open Meetings Act. Topics allowed to be discussed are those which are covered by one of the exceptions and specified in the vote to hold the Executive Session.
- (5) **Attendance of Media at Council Meetings:** All official meetings of the City Council and its committees with the exception of closed meetings shall be open to the media, freely subject to the recording by radio, television and photographic services at any time provided that such arrangements do not interfere with the orderly conduct of the meetings. It will be the responsibility of the presiding officer to determine what is orderly conduct.
- (6) **Remote Attendance by Council Members:** Any member of the City Council may attend and participate in any open or closed meeting of said public body from a remote location via electronic means provided that such attendance is in compliance with the rules set forth herein and any other applicable laws.
 - (1) **Prerequisites.** Any member of the City Council shall be provided the opportunity to attend an open meeting via electronic means from a remote location if a quorum is physically present at the meeting site, the quorum votes to approve the attendance in the open session by electronic means, and the requesting member meets the following conditions:
 - (a) The member must notify the City Clerk at least forty-eight (48) hours prior to the scheduled meeting, unless such notice is impractical, so that necessary communications equipment can be arranged. Said notification to the City Clerk shall be by completion and submission of an electronic attendance request form signed by the member. Inability to make the necessary technical arrangements will result in denial of a request for electronic attendance.
 - (b) The member must assert one (1) of the three (3) following reasons why he or she is unable to physically attend the meeting:

- (i) due to personal illness or disability;
- (ii) due to employment purposes or other City business;
- (iii) due to a family emergency or other emergency.

ALDERMAN COBB: Do we have this meeting equipment? What is the plan to make this possible? Are we changing the Code to something we are not able to do today?

ALDERMAN BLACK: I agree with the addition of such a policy to the ordinance to allow remote attendance, but this process seems a little clunky. 48 hours notice so necessary communications equipment be arranged? Is this the iPad we use, or the communication (phone) in the conference room where the rest of the council is meeting? I also don't understand why a vote is taken to allow remote members to participate if they answer during roll call. I think this particular topic should be discussed at an upcoming committee meeting (F&P or COW) for more input given the current circumstances.

- (2) Quorum and Vote Required. Providing the above prerequisites have been met and following roll call to establish that a quorum is physically present at the meeting site, a motion shall be made and considered as to whether to allow the member to remotely attend the open meeting via electronic means. A vote may be taken to permit participation for a stated series of meetings if the same reason applies to each case and proper notice has been provided to the city clerk. Otherwise, a vote must be taken to allow each remote participation via electronic means. The motion must be approved by a vote of a majority of the City Council.
- (3) Adequate Equipment Required. Any member participating electronically and other members of the City Council must be able to communicate effectively, and members of the audience must be able to hear all communications at the meeting site. Before allowing remote attendance via electronic means at any meeting, the City Council shall provide equipment adequate to accomplish this objective at the meeting site.
- (4) Meeting Minutes. Any member attending remotely via electronic means shall be counted as present for the meeting. The meeting minutes shall reflect and state specifically whether each member is physically present, absent, or present by electronic means and shall state the approved reason necessitating attendance via electronic means.
- (5) Rights of Remote Member. Any member permitted to participate remotely via electronic means shall be permitted to express his or her comments during the meeting and participate in the same capacity as those members physically present, subject to all general meeting guidelines and procedures previously adopted and adhered to. The remote member shall be heard, considered, and

counted as to any vote taken. Accordingly, the name of any remote members shall be called during any vote taken and his or her vote counted and recorded by the city clerk and placed in the meeting minutes. A member participating remotely via electronic means may leave a meeting and return as in the case of any member, provided the member attending via electronic means shall announce his or her leaving and returning to the quorum present.

(C) Presiding Officer and Duties.

- (1) Presiding Officer: The Mayor shall preside as Presiding Officer at all meetings of the Council. If a temporary absence or disability of the Mayor incapacitates him from the performance of his duties, the appointed Mayor Pro Tem shall preside as Presiding Officer. (Section 30.20)
- (2) Call to Order: The meetings of the Council shall be called to order by the Mayor or, in his absence, by the Mayor Pro Tem. In the absence of both the Mayor and Mayor Pro Tem, the meeting shall be called to order by the City Clerk for the election of a temporary chairman.
- (3) Preservation of Order: The presiding officer shall preserve order and decorum, prevent attacks on personalities or the impugning of members' motives, and confine members in debate to the question under discussion.
- (4) Points of Order: The presiding officer shall determine all points of order subject to the right of any member to appeal to the Council. If any appeal is taken, the question shall be, "Shall the decision of the Chairman be sustained?"
- (5) Questions to be stated: The presiding officer shall state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any member, in the manner provided in.; section 6.7 of these rules.

ALDERMAN BLACK: Does this mean that all questions that we would normally ask after a motion and a second would have to be asked by the presiding officer? Also where is section 6.7 (looks like a leftover from 1983 document)?

(D) Order of Business and Agenda.

- (1) Order of Business: The general rule as to the order of business in regular meetings shall be as follows:
 - (i) Call to Order
 - (ii) Roll Call
 - (iii) Pledge of Allegiance
 - (iv) Review Agenda – Deletions or Additions (Discussion Items Only)
 - (v) Consent Agenda
 - (vi) Announcements/Awards/Presentations/Recognitions/Proclamations
 - (vii) Audience Comments
 - (viii) Standing Committees

- (a) Finance & Personnel
- (b) Public Safety
- (c) Public Works
- (ix) Mayor
- (x) City Administrator
- (xi) Resolutions
- (xii) Ordinances
- (xiii) Aldermen's Comments
- (xiv) Adjournment

ALDERMAN COBB: I am really concerned if we codify our order of business we will lose the ability to change the order of business at the start of a meeting by a simple motion and majority vote. Similarly, a petitioner can ask at the start of the meeting to have an item removed but cannot do this if it is codified.

ALDERMAN BLACK: In my IML training (and in the handbook) it talks about agendas set by ordinance not allowing for changes. I do not want to implement this section by ordinance.

- (2) Agenda: The order of business of each meeting shall be as contained in the Agenda prepared by the City Clerk and/or City Administrator. The Agenda shall be a listing of subjects to be considered by the Council and shall be delivered to members of the Council at least forty-eight (48) hours preceding the meeting to which it pertains.
- (3) Reading of the Minutes: Unless a reading of the minutes of a council meeting is requested by a member of the council, such minutes may be approved without reading if the clerk has previously furnished each member with a copy thereof. (Section 31.05)

(E) Ordinances, Resolutions, and Motions.

- (1) Preparation of: The City Attorney shall cause to be prepared all ordinances, resolutions and other instruments pertaining to council business, pursuant to direction of the Council, or which he is requested to prepare by the Council, by the Mayor, by the City Administrator, or which he shall prepare on his own initiative. (30.38)
- (2) Procedure for passage of Ordinances: No ordinances can be passed unless it is read at least two meetings of the council unless the council unanimously votes to waive this requirement at a meeting at which a quorum of the council is present. (31.56)
- (3) Reading by Title Only: Upon being introduced, each proposed ordinance shall be read by title only, unless any member of the Council requests a full reading of the ordinance.

(4) Recording of Votes: The Ayes and Nays shall be taken upon the question of the passage of all ordinances, resolutions and motions and entered upon the official record of the Council.

(5) Discussion regarding motions: An alderman shall not speak more than once to the motion unless all aldermen have spoken.

ALDERMAN COBB: Does this mean that every Alderman must speak on an issue before you can speak on it again?

ALDERMAN BLACK: Does this mean that an alderman can only speak once to a motion and cannot speak again unless all other alderman speak? The presiding officer should allow conversations as necessary.

(6) Majority vote required: An affirmative vote of at least a majority of the members of the Council shall be necessary to pass an ordinance, but a resolution, motion or any other proposition may be adopted by a majority voting on the issue (except as otherwise specified in the State Statutes). When any vote is called each Council member shall respond "aye", "nay", "abstain", or "pass".

(7) Tie Vote: In event of a tie in votes on any motion by the aldermen, the Mayor shall cast the deciding vote.

(8) Numbering Ordinances and Resolutions: Upon passage, a number shall be assigned to each ordinance or resolution by the City Clerk.

(9) Passage and Publication: Upon passage by the Council, an ordinance shall be signed by the Mayor and be attested by the City Clerk; it shall be immediately filed, published according to the law and thereafter preserved in the office of the City Clerk.

(10) Legal Opinions: The City Council, the Mayor, or the City Administrator may request written legal opinions, relating to city business, from the City Attorney. Upon receiving requests for a legal opinion, and upon return receipt thereof, the City Administrator shall forthwith cause to have distributed the written legal opinion to all members of the Council so that all members of the Council may be fully informed of the status of City affairs. Any member of the Council may, for purposes of inquiry, request verbal opinion or advice on City legal matters directly from the City Attorney.

ALDERMAN COBB: What is the difference between a "written legal opinion" and a "Verbal opinion?" Why are they different? I believe it should be consistent and the same for all.

ALDERMAN COBB: I believe this should say "with the concurrence of the majority of the Council."

(F) Creation of Committees, Boards, and Commissions.

- (1) Citizen Committees, Boards and Commissions: The Council may create committees, boards and commissions to assist in the conduct of the operation of the City government with such duties as the Council may specify not inconsistent with the City Code.
- (2) Membership and Selection: Membership and selection of members shall be as provided by the Mayor with the concurrence of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Administrator, except where otherwise specified by the City Code.

(G) Public Comment at City Meetings.

- (1) Background: Pursuant to the Open Meetings Act, 5 ILCS 120/2.06(g), any person shall be permitted the opportunity to address public officials under the rules established and recorded by the public body. Public participation and comments at meetings of the City of Washington are limited to the portion of the City meeting as provided for in the meeting agenda, and shall be permitted in accordance with the provisions of this section.
- (2) Manner of Addressing Public Officials: The presiding officer shall determine the order of turn in which members of the public address and comment at any City meeting. All individuals being called shall speak so he/she can be heard in an audible tone of voice. Such comments by any one person shall be limited to five (5) minutes in any City Council meeting, or three (3) minutes in any other City meeting, unless an extension of time is granted at the presiding officer's discretion. Citizens shall not yield unused time to other speakers. The presiding officer shall have the right at any time to close comment by that person, when, in the presiding officer's discretion, such input violates the provisions of these rules, or is otherwise irrelevant, repetitious or disruptive. A total period of time not to exceed twenty (20) minutes for any City Council meeting, or fifteen (15) minutes for any other City meeting will be devoted to public comment. This amount of time shall be extended only upon a motion and second of the City Council or Committee, and a majority vote in favor thereof. Any person who is not able to address the public body due to time constraints will be encouraged to attend a subsequent meeting to address the public body or to provide written comments.
- (3) Redundancy: If numerous persons wish to comment on a single topic, the presiding officer may recognize a specified number of individuals who wish to speak in favor of, against or wish to make general comments regarding the topic. The City Council or City Committee shall not be required to allow every person who wishes to address the issue to do so, but as many views as possible are encouraged to be heard. Any person who is not able to speak during the time for public comment shall be allowed and encouraged to present his or her views to the City Council or City Committee in writing.

- (4) Decorum. While making public comment during any City meeting, members of the public shall address the entire public body, and shall not attempt to address or enter into dialog with individual members of the public body. Any person who uses profanity, or engages in threatening, inappropriate, offensive, slanderous or disorderly behavior, shall be deemed out-of-order by the presiding officer and his or her time for public comment shall end. An individual who violates any of the rules specified herein may be removed from the City meeting at the discretion of the presiding officer.

(H) Suspension and Amendment of These Rules.

- (1) Suspension of These Rules: Any provision of these rules not governed by the Code of Ordinances may be temporarily suspended by a vote of five (5) members of the Council. The vote on any such suspension shall be taken by ayes and nays and entered upon the record.
- (2) Amendment of These Rules: These rules may be amended, or new rules adopted, by a majority vote of all members of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting.

Section 3. This ordinance shall be in full force and effect upon its passage, approval, and publication as provided by law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Washington, Tazewell County, Illinois, on the _____ day of _____, 2020.

Ayes: _____

Nays: _____

Mayor

ATTEST:

City Clerk