



CITY OF WASHINGTON, ILLINOIS

Committee of the Whole Agenda Communication

Meeting Date: November 14, 2022

Prepared By: Jim Snider, City Administrator

Agenda Item: Chapter 31.58 Follow-Up Discussion

Explanation: Following discussion at the October Committee of the Whole meeting, the City Council asked staff and the City Attorney for clarification on what constitutes an “abstention” and if Robert’s Rule of Order addresses a “pass” vote. This is the City Attorney’s analysis:

Abstention.

Section 31.58 of the City Code and the City Council Rules of Procedure (“ROP”) provide the following standard for the passage of ordinances, resolutions and motions:

1. **Ordinance:** Five affirmative votes from the City Council (Section 6.7 of the ROP);
2. **Resolution or Motion to Create Any Liability Against the City or for the Expenditure or Appropriation of its Money:** majority of all alderpersons present at a duly convened meeting of the City Council where a quorum was established (Section 31.58); and
3. **All other Resolutions or Motions:** A majority voting on the issue (6.7 of the ROP).

The City Council directed City Staff and the City Attorney to revise Section 31.58 of the City Code and the ROP to provide that the passage of all ordinances, resolutions, or motions shall require the concurrence of a majority of the City Council present at a duly convened meeting of the City Council where a quorum was established unless a more rigorous voting standard is required by the City Code or Illinois law.

Robert’s Rules of Order (“Robert’s Rules”) (codified in Section 31.07 of the City Code) provides that abstentions are not counted as votes (page 45 of Robert’s Rules) unless the voting standard is based on a majority of members present (page 403 of Robert’s Rules). When voting standards are based on a majority of members present page 403 of Robert’s Rule observes that an abstention “has the same effect as a negative vote, [and] . . . members [are denied] the right to maintain a neutral position by abstaining.” For this reason, Robert’s Rules concludes that voting standards based on a majority of members present are “generally undesirable” (page 403 of Robert’s Rules).

If the City Council adopts a voting standard based on a majority of members present, the City Attorney recommends the City Council adopt a different approach than Robert’s Rules for abstention based on conflict or potential conflicts of interest. As proposed in the draft Section 31.58 considered by the City Council at the October 10, 2022, Committee of the Whole Meeting (attached), a member who abstains due to a conflict of interest is not considered present when determining whether a majority of the City Council supports the passage of an ordinance, resolution or motions. Under this proposal, an abstaining member of the City Council will have no impact on whether an ordinance, resolution or motion is approved. As proposed, if six members of the City Council are present and three members abstain due to a conflict or potential conflict of interest, the ordinance, resolution or motion can pass. Applying Robert’s Rules to this example, the ordinance, resolution or motion will fail and potentially creates deadlock where a significant number of members of the City Council have a conflict or a potential conflict of interest.

The City Attorney shares Robert Rule’s concern of a voting procedure that allows an abstention to have the same legal effect as a no vote. For this reason, the City Attorney recommends the abstaining member of the City Council

provide the basis for their abstention on the record. If the abstaining member does not want to state for the record the basis for the abstention, the abstaining member should vote no on the matter.

If the City Council adopts the abstention rules described above, the City Attorney further recommends the City Code provides a mechanism for determining whether a stated basis supporting an abstention is for a conflict or potential conflict interest. The revised Section 31.58 proposes the Presiding Officer (generally the Mayor) be the person who has final authority as to whether a reason rises to the level of a conflict or potential conflict of interest. Alternatively, the City Council can replace the Presiding Officer with the final authority as to whether an abstention is due to a conflict or potential conflict of interest.

Pass

Effective September 8, 2020, the City Council revised Section 6.5 of the ROP to add “For a roll call vote, the Clerk shall call the vote rotating alphabetically per ordinance, resolution and motion.” City Staff and the City Attorney believe that this change reflected the City Council’s desire to avoid having the same member be the first to vote on any ordinance, resolution or motion.

Section 6.7 of the ROP permits a Council member to vote “pass” in response to any roll call vote. Page 421 of Robert’s Rules provides that a member may “pass” if the member is not ready to vote but wishes to be called on again after the roll has been completely called. City Staff and the City Attorney believe the ROP continuing to allow a member of the City Council to “pass” and vote later contradicts the policy direction set forth in Section 6.5 of the ROP and thus should be removed from Section 6.7 of the ROP.

Fiscal Impact: N/A

Action Requested: This is provided as a follow-up to the October COW discussion. Any desired changes to Chapter 31.58 would require approval of an ordinance by the Council.



CITY COUNCIL RULES OF PROCEDURE

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*Passed and approved by the City Council at a regular meeting on May 16, 1983 by Resolution R-168;
Amended by Ordinance 3260 on November 20, 2017; Amended by Resolution 1305 on July 13, 2020;
Amended by Ordinance 3398 on September 8, 2020.*

1. Authority

- 1.1 Ordinance: The Code of Ordinances of the City of Washington provides that the Council may determine its own rules of procedure for meetings. The following set of rules shall be in effect upon their adoption by the Council and until such time as they are amended or new rules adopted in the manner provided by these rules.

2. General Rules and Public Officials

- 2.1 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.
- 2.2 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)
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 City Administrator: 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)
- 2.7 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)
- 2.8 City Engineer: The City Engineer shall attend all meetings of the Council unless excused. (Section 32.023, appointed officials)
- 2.9 City Treasurer/Budget Officer: 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. The City Administrator may be appointed as Budget Officer and be responsible for the duties as set in Section 30.36.
- 2.10 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.
- 2.11 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.
- 2.12 Rules of Order: All proceedings of the Council not specifically provided for in 31.20 to 31.49 shall be in accordance with "Roberts Rules of Order." (Section 31.07)

*Except where State Statutes allows Executive Sessions for certain limited topics.

3. Types of meetings

- 3.1 Regular meetings: The Council shall meet in the Council Chambers 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)
- 3.2 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 twenty-four hours (24) 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.
- 3.3 Committee of Whole Meeting: The Council shall meet informally in Committee Meeting (open to the public), on the second Monday of each month, or 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. The Committee of the Whole (COW) Meetings shall meet in the Council Chambers and are to commence at 6:30 p.m.
- 3.4 Executive Sessions: Executive Sessions or 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.
- 3.5 Attendance of Media at Council Meetings: All official meetings of the City Council and its committees 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.

4. Presiding Officer and Duties

- 4.1 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 Council shall elect one of its members to act as mayor pro tem. (30.20)
- 4.2 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.
- 4.3 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.
- 4.4 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?"
- 4.5 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.

5. Order of Business and Agenda

5.1 Order of Business: The general rule as to the order of business in regular meetings is listed below. The order of business set forth in this section is a guideline and shall not be construed in any way as to limit the order in which the Council may elect to proceed with its business.

- I. Call to Order
- II. Roll call
- III. Pledge of Allegiance
- IV. Review Agenda – Deletions or Additions (Discussion Items Only)
- V. Consent Agenda - The consent agenda is a tool used to streamline council meeting procedures by collecting and grouping routine, noncontroversial topics into a single agenda item that can be discussed and passed with a single motion and vote, including Approval of Minutes, Bills and Payroll and other noncontroversial topics.
- VI. Announcements/Awards/Presentations/Recognitions/proclamations
- VII. Audience Comments
- VIII. Standing Committee Reports
 - a. Finance
 - b. Public Safety
 - c. Public Works
- IX. Mayor
- X. City Administrator
- XI. Resolutions
- XII. Ordinances
- XII. Alderman's Comments
- XIV. Executive Session
- XV. Adjournment

5.2 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.

5.3 Presentation by Members of Council: The Agenda shall provide a time when the Mayor or any council member may bring before the Council any business that he/she feels should be deliberated upon by the Council. These matters need not be specifically listed on the Agenda, but formal action on such matters shall be deferred until a subsequent Council meeting, except that immediate action may be taken upon a vote of two-thirds of all members of the Council.

5.4 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)

6. Ordinances, Resolutions and Motions

6.1 Preparation of: The City Administrator or City Attorney shall cause to be prepared all ordinances, resolutions and other instruments pertaining to council business, pursuant to direction of the Council, by the Mayor, or which he shall prepare on his own initiative. (31.55)

6.2 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)

6.3 Distribution of Ordinances: The City Clerk shall prepare copies of all proposed Ordinances for distribution to all members of the Council to be included in the Agenda material.

- 6.4 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.
- 6.5 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. For a roll call vote, the Clerk shall call the vote rotating alphabetically per ordinance, resolution and motion.
- 6.6 Discussion regarding motions: An alderman shall not speak more than once to the motion unless all aldermen have spoken.
- 6.7 Majority vote required: ~~Section 31.58 of the City Code governs the voting standards for the passage of an ordinance, resolution, or motion. 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".~~
- 6.8 Tie Vote: In event of a tie in votes on any motion by the aldermen, the Mayor shall cast the deciding vote.
- 6.9 Numbering Ordinances and Resolutions: Upon passage, a number shall be assigned to each ordinance or resolution by the City Clerk.
- 6.10 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.
- 6.11 Legal Opinions: The City Council, the Mayor, or the City Administrator may request verbal or written legal opinions, relating to city business, from the City Attorney. Upon receiving requests for a written 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 during a council meeting.
7. Creation of Committees, Boards and Commissions
- 7.1 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.
- 7.2 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.
8. Public Comments at City Council Meetings
- 8.1 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.
- 8.2 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 audible tone of voice. Such comments by any one

person shall be limited to five (5) minutes in any City Council meeting, or there (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.

8.3 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.

8.4 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.

9. Suspension and Amendment of These Rules

9.1 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.

9.2 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.

10. 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.

10.1 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.

10.2 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. 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.

10.3 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.

~~The-Except as otherwise required in this City Code or by the laws of the State of Illinois, the passage of all ordinances for whatever purpose, and of any resolution or motion to create any liability against a city or for the expenditure or appropriation of its money, , resolutions, or motions shall require the concurrence of a majority of all Aldermen-the City Council present at a duly convened meeting of the City Council where a quorum was established-unless otherwise expressly provided by this code or any other act governing the passage of any ordinance, resolution, or motion. Notwithstanding the previous sentence, the passage of an ordinance, resolution, or motion to designate city property as surplus and to establish the process for the disposition of such surplus city property shall require the concurrence of three-fourths (¾) of all Aldermen then holding office. The process established in such ordinance, resolution or motion for the disposition of surplus city property may or may not require further City Council action. If further City Council action is required, the subsequent vote required by the City Council shall be set forth in the ordinance, resolution or motion declaring such city owned property as surplus and may be less than three-fourths (¾) of all Aldermen then holding office.~~ The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the City Council. A member of the City Council may abstain from voting on an ordinance, resolution, or motion only if such member states on the record the basis for such abstention. If the basis supporting the abstention is a conflict or potential conflict of interest, such abstaining member(s) shall not be deemed present for purposes of determining the result of the vote . If the basis supporting the abstention is for a reason other than a conflict or a potential conflict of interest, such abstaining member shall be deemed present for purposes of determining the result of the vote. The Presiding Officer shall determine whether the abstention is for a conflict of interest, potential conflict of interest, or otherwise. This Section 31.58 represents an intentional difference from the procedure outlined in Robert's Rules of Order otherwise codified in Section 31.07."

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