

**URBANA**  
**CITY COUNCIL**  
**PROCEDURES & ORIENTATION**

**2020**

Revised January 2020 by:

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City Clerk

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We gratefully acknowledge the original compilations of Phyllis Clark, Urbana City Clerk (1993-2017) and Jack Waaler, Urbana City Attorney (1969-2003). Curt Borman, Assistant City Attorney, provided additional content and very helpful feedback.

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# ***WELCOME!***

## **You Are Now A Municipal Official in A Mayor – Aldermanic Form of Government with “*Home Rule*” Authority!**

Welcome to the City of Urbana! As a newly elected or appointed City Council Member, you represent your constituents (Ward) and the residents of the City of Urbana. The state designated title for this position is “Alderman” (City Council – Mayor Form of government). For City purposes, the Council has designated the use of Alderman/woman/person and City Council Member. However, for State purposes, you will need to use “Alderman”. You will often hear the phrase “corporate authorities” used in ordinances. The Illinois Municipal Code (65 ILCS 5/1-1-1 *et seq.* the statute that governs municipalities) defines “corporate authorities” as the City Council Members and the Mayor (65 ILCS 5/1-1-2(2)). If you hear that some action must be taken by the “corporate authorities”, that means both City Council Members and the Mayor must be involved in taking such action. Otherwise, the Mayor will not vote on a matter. The City of Urbana is also coterminous with the Town of Cunningham (Cunningham Township) so you serve as a Trustee of the Cunningham Township Board.

This manual is a compilation of information needed for City Council Members in their primary role as a legislative body and member of the Corporate Authorities. Occasionally, you will also have an adjudicative or administrative role. It is our hope that you can utilize it, adding to it as you deem necessary, as you learn and grow as municipal officials. Below is a brief overview of my duties as the City Clerk. The City Attorney has a section on your duties and responsibilities. My staff and I are here to help make your job as easy as possible so let us help you with obtaining supplies, making travel arrangements, and answering questions related to city function best we can.

As a Trustee for Cunningham Township you will have certain additional Township-related duties meeting once a month as the Township Board. The Mayor serves as chair (non-voting) of the Board. There are two elected officials serving the Township, the Township Supervisor and the Township Assessor. The City Clerk serves as Town Clerk.

We look forward to a productive and prosperous term with you.

- *Charlie*

Alderman, Ward 2, May 1989 – 1993  
Urbana Free Library Board, 2000-2007  
City Council Member, Ward 1, May 2005 - 2017  
City Clerk, May 2017 -

## Office of the City Clerk

The City Clerk, an elected official, has the primary responsibility of keeping the official records and documents of the City. It is an office handling the minutia associated with good government.

Documents are the wheels that move government. However, documents and Council action are usually not accepted by the courts or other government entities until the Clerk certifies and verifies those documents or specific Council action. The Clerk is responsible for legal documentation that include Council Proceedings, resolutions, ordinances, contracts, agreements, and all other communication of the City Council.

The City Clerk attends all meetings of the Council, including Council/Committee of the Whole and Executive/Closed Sessions, and is responsible for preparing the Council agenda and notices of meeting and hearings before the Council. The Clerk's office keeps the official seal and records for the City.

The Clerk maintains the City Code, accepts official filings and petitions, and disseminates information to citizens, is the Freedom of Information Act Officer for the City, and administers and maintains Domestic Partnership and Raffle License registrations. By statute, the Clerk is Ex-Officio Township Clerk for the Cunningham Township, maintains township records, and provides the second signature on township checks for bills and general assistance.

## State of Illinois Statutory Requirements

You must complete Open Meetings Act (OMA) training and, if required, file an annual Statement of Economic Interest. The OMA training takes about an hour and only has to be done once. Please provide a copy of your certification to the staff member responsible for your board or commission and to the Mayor's office.

### Open Meetings Act

**Open Meeting Act Requirements:** ALL Public Officials are required by Section 1.05 of the Open Meetings Act, 5 ILCS 120/1.05, to successfully complete the electronic training curriculum on the Open Meetings Act developed and administered by the Public Access Counselor **within 90 days of taking office**. Newly appointed members of a public body have 90 days from appointment to complete this. You are urged to complete Open Meetings Act training as soon as possible.

The certification and additional information can be accessed at <http://foia.ilattorneygeneral.net> – you will need to set up an account first.

The Open Meetings Act (“OMA”) governs all regular and special meetings of the City Council, Committee of the Whole and all commissions, boards and task forces created by the City Council. 5 ILCS 120/1.02. The overriding policy and purpose of the Act is to assure, to the maximum degree reasonable, that all City Council, Committee of the Whole, City Commission, City Board, and City task force business is considered and conducted openly so that citizens can be informed about the business which the City conducts. The Illinois General Assembly has declared:

In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.

5 ILCS 120/1. The term “meeting” is defined as –

any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business ...

*Id.* For the City Council (7 members), a majority of a quorum includes three (3) or more members. For a 9 member Board, this would still be three (3) or more members.

The more difficult part of the OMA to apply is when “contemporaneous interactive communication” occurs. Suffice it to say, the OMA will apply when the following elements are present:

- The verbal, e-mail, or text communication involves some aspect of Commission business; and
- At least three (3) appointed members participate in the verbal or electronic communication; and;
- The communication between and among the appointed members, regardless of who else may be present, can be deemed or construed as a contemporaneous interactive communication.

Other sections of the OMA require 48-hour advance notice of any meeting called, publication of the agenda for the meeting, and affording any person an opportunity to provide public input. City Ordinances and an Open Meetings Act FAQ are attached.

## Statement of Economic Interest

**Statement of Economic Interest Forms:** Statements of Economic Interests are due by **May 1 of each year. This is an annual requirement** for all elected officials, many city staff, and some Board and Commission Members (**Urbana Arts and Culture, Community Development, Civil Service, Design Review, Fire Pension, Foreign Fire Insurance, Historic Preservation, Plan Commission, Police Pension, Zoning Board of Appeals, Urbana Sister Cities**).

This is an online procedure that is usually available the February 1 of each calendar year from the Champaign County Clerk’s office webpage at <https://www.champaigncountyclerk.com>. Newly elected officials, if not already issued a logon by the County Clerk, will need to file a paper copy.

The Illinois Government Ethics Act established the Statement of Economic Interest procedure and describes those who need to fill out this annual report. Further information can be found at <http://www.ilga.gov/legislation/ilcs>.

## Dates

The next city elections will take place as part of the 2021 Consolidated Election Primary and General Election, the last Tuesday in February (Feb. 23, 2021) and the first Tuesday in April (Apr. 6, 2021). The following dates are **tentative** pending State Board of Elections publication of official dates Fall 2020.

**August 4 (tentative), 2020** – Nominating petitions available online and at the City Clerk’s Office

**August 25, 2020** – First day to circulate petitions

**November 16, 2020** – First day for candidates to file petitions (Primary)

**NOTICE: The City Clerk’s Office is closed Thursday, November 26 and Friday, November 27, 2020 for the Thanksgiving Holiday**

**November 23, 2020** – Last day for candidates to file petitions until 5:00 PM (Primary)

**November 30, 2020** – Last day for filing objections to nominating petitions (Primary)

**December 14-21** – Period for filing for April 6 Consolidated Election

**May 3, 2021** – Oath of Office for newly elected City Officials (will follow as new business in the regular or special meeting of the current City Council)

**May 17, 2021** – Swearing in of Cunningham Township Supervisor and special meeting of the Township Board

**January 1, 2022** – Swearing in of Cunningham Township Assessor

## RESOURCES

Please familiarize yourself with the city’s website, [urbanaininois.us](http://urbanaininois.us). You can find many useful links under “Government” starting with the city’s [organizational chart](#) as well as numerous links to share with constituents.

Ordinances governing City elected and appointed officials, City employees, residents, businesses, and visitors to the City are found in the Code of Ordinances City of Urbana, Illinois that is hosted by the MuniCode Corporation which can be found at:

[https://library.municode.com/IL/urbana/codes/code\\_of\\_ordinances?nodeId=COORURIL](https://library.municode.com/IL/urbana/codes/code_of_ordinances?nodeId=COORURIL).

The Code of Ordinances for the City of Urbana is referred to as the “Urbana City Code” or “UCC” and sections within the Urbana City Code are cited, for example, as UCC Sec. 2-23. Other matters, such as Fiscal Year budgets and amendments thereto are adopted by ordinance but those types of ordinances are not included in the online Urbana City Code. Many matters (e.g., approval of contracts and intergovernmental agreements) are approved by the City Council as resolutions. Resolutions are not included in the online Urbana City Code. All ordinances and resolutions adopted by the City Council are found online by year at:

[https://www.city.urbana.il.us/\\_Ordinances\\_-\\_Resolutions/](https://www.city.urbana.il.us/_Ordinances_-_Resolutions/)

The City is a member of the Illinois Municipal League. The IML provides resources to elected

officials and has a sister organization, the Municipal Clerks of Illinois (MCI) that is another resource. For general information, please see the respective websites at [iml.org](http://iml.org) and [mci.iml.org](http://mci.iml.org)

## **Illinois Municipal League (IML) Annual Conference**

At the Hilton Chicago (downtown Chicago):

- 2020 - September 24-26
- 2021 - September 23-25

## **IML Newly Elected Officials Seminars**

<http://events.iml.org/>

Handbook for newly elected officials: <http://www.ancelglink.com/Resource/Download/174>

The IML also sponsors the Illinois Municipal Handbook. A 2018 edition has been printed. This is edited by Ancel Glink, a law firm specializing in municipal law in the state and on retainer for the Municipal Clerks of Illinois (MCI) as well as to IML. Ancel-Glink also provides a variety of other written and online materials. An interesting online resource is here:

<http://www.ancelglink.com/Resource/Download/111>

## **Open Meetings Act (OMA) and Freedom of Information Act (FOIA)**

The group <http://www.citizenparticipation.org/> publishes an Illinois Sunshine Laws manual with all the latest updates. It is printed as needed through the year as new changes or interpretations are made.

***NOTE:*** Please be advised that when registration information is received for any of the above conferences, the Clerk's office will forward it to you. Should you want to attend any event, just advise the Clerk's office and registration, reservations, and travel accommodations will be made for you.

## **Cunningham Township Trustee**

Cunningham Township website: <https://www.urbanainllinois.us/boards/cunningham-township-board>

Generally speaking, the town board is the legislative branch of township government, which establishes policy for the township to follow. Policies established by the town board are generally carried out by the supervisor and clerk in their capacities as administrators. The town board may not establish policies for the township assessor. Cunningham Township administers General Assistance Welfare benefits and works with the City of Urbana on the Consolidated Social Service Grants Program which distributes grants to local non-profit agencies also serving low-income persons.

The township trustees are responsible for adopting the annual budget, appropriation ordinance, general assistance, and certifying tax levies for the township. The trustees are also responsible for approving all town expenses, and auditing bills submitted for payment. The trustees have an

obligation to approve all legally incurred bills to the extent that there is an appropriation for the expenditure. Conversely, the trustees have an obligation to reject for payment, all bills that are not legally incurred debts.

### **Checklist and Miscellaneous**

This checklist summarizes the bits and pieces to accomplish setting you up for success in office:

<b><u>New Council Member Check List</u></b>	
Economic Disclosure Statement	
Oath of Office	
Council Rules/Orientation Manual	
Books - Newly Elected Guide	
Meeting Schedule	
Email Account on Exchange Server	
Business Cards	
Picture/Website Info	
Name Plate for Chambers	
Payroll Information	
OMA Training Certification	
City Budget	
TIF Training	
IML membership	
City Staff list	
City Calendars	
Office Supplies and budget	
Name Tags	
Council Security	
Closed Minutes	

The City Council Procedures and Orientation manual describes some of the checklist material and is updated annually or as needed by the City Clerk. The Newly Elected Guide serves as a general guidebook to government in Illinois. You will become a member of the Illinois Municipal League, a state level organization providing elected officials with a variety of resources.

The Clerk’s office can help arrange meetings with Department Heads and tour facilities. Ride-alongs with Police, Fire, and Public Works are also available and encouraged. You will need to fill out some paperwork with Personnel (Rhonda Collins) for your quarterly salary. We strongly advise just having this deposited directly to a bank account

Elizabeth Hannan, Finance and HR Director, can provide guidance on the city budget. Community Development (Lorrie Pearson, Director) is responsible for building codes, inspections, and zoning. Brandon Boys, the Economic Development manager and his staff can arrange a time to review Tax Increment Financing (TIF).

The IT department (Sanford Hess, IT Director) will set up an official email account on the city exchange server. This can be accessed via a web browser or Microsoft Outlook. There is a very nice Outlook App for smartphones that staff can assist in installing as well. The advantage of using Outlook is that you would have a calendar to work with too – this is something that could be populated with meetings and so on by the clerk’s office for you as well. It also serves as a single point of reference for Freedom of Information Requests. The form of the email address will be the initials of your given name(s) and your last name @urbanaininois.us

Related to this email account are business cards for Council Members ordered by the Clerk’s office and can have various combinations of title, address and email. You may use your home address and landline/cell phone number along with city email address. You do become a public official and you will get interviewed on TV, radio, and by the written press. Welcome to the club. And once you are on the news a few times or people see you on UPIV (amazing number of people who watch), people will look at you in the grocery store like they know who you are. Your challenge will be to remember all their names!

Similarly, we have our mug shots and contact information on the city webpage. We can arrange for a picture to be taken or you can supply it along with relevant information. Please see <https://www.urbanaininois.us/city-council> for guidance.

The City Clerk’s office is available to assist you. Please don’t hesitate to ask. I will also provide you with my cell phone number and I am usually reachable 24/7 in an emergency.

# **MEETINGS**

(And related information)

The Council is obligated to work through Public meetings to accomplish its business. There are several types of meetings. Law and procedure set requirements and limitations for each type:

1. Regular Meeting, during which Regular, Unfinished and new Business is conducted, and which can include a Committee of the Whole Session.
2. Special Meeting, as follows:
  - a. Special Meeting to conduct Business (Action);
  - b. Special Meeting to conduct Budget or Public Hearing;
  - c. Special Meeting to conduct an Executive Session;
  - d. Special Meeting to conduct a Joint Taxing Body Session;
  - e. Special Meeting to review Social Service Agency Funding.

## **HOW MEETINGS ARE CALLED**

The Mayor or any three Council Members may call a special meeting, by notification to the City Clerk.

## **REGULAR MEETINGS**

Regular meetings are set by Ordinance (UCC Sec. 2-25) and posted by State law. They are “set” by this procedure. You, the public, and the media are on “notice” that the government will meet and will likely take action. Agendas are posted at least 48 hours prior to the meeting. New business may be presented and discussed at a meeting but, by law, no final action can be taken on any item that has not been noticed on the agenda. Regular meetings begin at 7 p.m. and have a mandatory adjournment at 10:30 pm unless time is extended in up to 30 minute increments by a two-thirds vote of the alderpersons present (Resolution No. 2017-06-043R). Meetings must end by 11:30 p.m. However, the Open Meetings Act allows for a meeting to be continued via recess in any case where the meeting was open to the public and (1) it is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda.

Executive/closed sessions do not have to be listed on the agenda to be held at a Regular Meeting. All executive sessions can be added to the agenda in the same manner as any other new business. (See below regarding the means for going into executive/closed session.) At a Committee of the Whole meeting, an item may be placed on the meeting agenda by the Chair, on his or her own motion, or at the request of any alderperson. Alternatively, the Mayor may place an item on the agenda of a 2017-07-045R, amended by Resolution 2019-12-055R (Council Rules) below for additional details.

## **SPECIAL AND RESCHEDULED MEETINGS**

A special meeting is one held occasionally for special purposes. Special meetings take place at dates and times other than regularly scheduled meetings. 5 ILCS 120/2.02(a). A Special Meeting, like any regular meeting, requires at least 48 hours prior notice to the media and citizens, therefore, the Clerk needs an additional 3 to 4 hours to meet the notification requirement. Notice of the special meeting **must** include an agenda (purpose) of the meeting. No other business may be brought up or discussed at a special meeting, other than what is noticed or listed on the agenda. So, if final action is desired, it must be noticed by including it on the agenda. The Open Meetings Act uses the term “rescheduled meeting” but does not define it. In the context of the Act, however, the term refers to a regular meeting of a public body that will occur at a different time or time and date than originally scheduled. Generally, the public notice requirements for a special or a rescheduled meeting are identical.

A special meeting and a rescheduled meeting differ in two key respects. First, a special meeting is an additional meeting not listed on the annual schedule of regular meetings that each public body must make available at the beginning of each calendar or fiscal year. 5 ILCS 120/2.02(a); 5 ILCS 120/2.03. On the other hand, a rescheduled meeting is a meeting listed on the public body’s annual schedule of meetings. However, a rescheduled meeting takes place at another time or time and date than as shown on the annual schedule. Second, a public body may only discuss items specifically listed on the meeting agenda at a special meeting. 5 ILCS 120/2.02(a). By contrast, a public body may discuss topics not listed on the agenda at a rescheduled meeting because a rescheduled meeting is merely a regular meeting held at a different time or time and date than originally scheduled.

The Open Meetings Act does not specify who determines whether or when a public body is to hold a special or rescheduled meeting. Therefore, the law leaves the decision to each individual public body. The City Council has established rules for calling special City Council meetings in Urbana City Code Section 2-25(d) and rules for calling rescheduled City Council or Committee of the Whole meetings in Sections 2-25(b) and (c), respectively. A public body also may establish meeting rules for its subsidiary public bodies and the Council has done so for several boards and commissions.

## **SPECIAL MEETINGS TO CONDUCT BUDGET HEARINGS/MARK-UPS**

Budget Hearings-Mark-Ups are set by the Mayor and the Finance Director to provide the Council an opportunity to review and adjust the City’s budget for the next fiscal year. The Council will approve the final budget for filing with the County Clerk.

## **EXECUTIVE SESSION/CLOSED SESSIONS**

According to the Open Meetings Act, the Council can only move into Executive/Closed Session during a properly noticed open meeting. Your motion need not indicate the exact exception cited in the statute, but the better practice is to state both the description and statutory citation of the exception. For example, if the City Council desires to hold a closed meeting to consider the purchase of a parcel of real estate, a member may make a motion to go into closed session “for the purpose of considering the purchase of real property in accordance with 5 ILCS 120/2(c)(5).” You must take a roll call vote (or otherwise indicate each member’s vote) in open session on the question of going into a closed session. While a consensus can be taken in Executive/Closed Session, **no final action** can be taken on any particular item until that proposed final action can be voted upon

in open session, and a full accounting of the issue is given to the public beforehand. It should be noted that when a motion to go into closed/executive session is made, the details of the substance of the reason for going into closed/executive session should not be stated. For instance, you would not state: "I move to go into closed session to discuss the purchase of 1234 East Main Street in accordance with 5 ILCS 120/2(c)(5). Including such detail defeats the purpose of going into closed/executive session.

If not already included on the agenda, the City Attorney will guide you and will cite the relevant exception during the meeting, if necessary.

## **CANCELLED MEETINGS**

The above section on regular meetings does not address meeting cancellations. Since these occur periodically, Urbana City Code Section 2-25(a) contains the following procedure: "A meeting of the city council may be cancelled or rescheduled by:

- (1) a motion passed by a majority vote of the city council members then holding office;
- (2) one or more written communications to the city clerk in which a majority of the city council members then holding office request the cancellation or rescheduling of a meeting; or
- (3) a written communication to the city clerk from the mayor which states that:
  - a. the mayor anticipates a lack of a quorum; or
  - b. there are no agenda items to be considered for final action; or
  - c. an emergency exists or will exist at the time when the meeting is to be convened which affects or which is expected to threaten human life, health, safety, or welfare.

## **HEARINGS**

Several types of city action require a "Public Hearing" to allow for comment on particular actions such as annexations and other zoning actions, the annual City Budget, and the Tax Levy.

## **AGENDA CONTENT AND DELIVERY**

Your agenda packet consists of the Agenda and all related communications and proposed ordinances, resolutions, agreements, studies, etc., upon which you will be called upon to act at the following meeting. Your packet is ready Thursday afternoons and can be mailed to you if desired. An email will be sent indicating that packets can be downloaded from the City electronically. Otherwise, the packet will be held in the police department for pickup by you unless you indicate that you don't wish a paper copy at all.

A typical agenda has a call to order (roll call), approval of minutes of previous meeting(s), and any public input held before agenda items, before discussing the business of the board or commission. Typically, a topic will be introduced by a staff member, a guest presenter, or a member(s) of the board. Following questions and before specific discussion, if a particular action is to be taken, a motion determining the action is the appropriate next step. However, some general discussion may be needed to determine the next step.

## **OTHER CITY COMMISSION MEETINGS**

Much of the work of the City is done through City Boards and Commissions. They hold meetings, conduct hearings, and deliberate in a manner consistent with the Open Meetings Act and make recommendations to the Council. The Plan Commission and Zoning Board of Appeals have several statutory duties as well and some boards have quasi-judicial hearings. Many issues upon which you will eventually vote begin here. You are welcome at any of the commission meetings. However, as discussed in the City Attorney's section that follows, you are strongly encouraged not to participate in any way at any commission or board meeting at which that commission's or board's recommendation for a final action will be presented to and considered by the City Council. Your participation at such a meeting and then deliberation as a City Council or Committee of the Whole member may compromise the parties' due process rights. The Department Liaisons should send you all commission agendas and minutes. Let the mayor/City Clerk know if you do not receive them. Please note the monthly calendar that will be in your packet at the beginning of each month, for the dates and places of Commission meetings. While a City Council member is free to attend a commission's public meetings, our City Attorney advises that a member not participate in matters in which he or she may be later called upon to render a final decision. A complete calendar of meetings with links to agendas and video can be found on the city website in the meetings calendar (<https://www.urbanaininois.us/meetings/calendar>)

## **PUBLIC INPUT (OPEN MEETINGS ACT REQUIREMENT)**

With the exception of Executive/Closed sessions, all of the meetings described above must provide for a period of public input and this is listed on all agendas. A special session for the purposes of going into closed session would also require public input as part of the agenda. Please note that a member of the public speaking before council as part of the public input provisions is not providing "testimony" as they have not been sworn in. They are simply speaking on a topic related to something on the agenda or a topic of their own interest. It should be noted that "public input" is not required at a Public Hearing since a Public Hearing, virtually in its entirety, seeks public input.

## **COUNCIL BUDGET**

The annual city budget provides a \$900 allotment for each council member for travel, training, and supplies (including clerical help). The usual city per diem and travel policies apply though council members are able to trade with each other to enable attendance at more expensive events. You are asked to submit receipts to the city clerk for processing (such as hotel, travel, and meal expenses).

You may also request supplies such as folders, pens, and paper pads from the Clerk's office.

## **CONSENT AGENDA**

The consent agenda is a version of omnibus voting governed by Illinois Statute. Under current rules, a move to consider a group of ordinances and resolutions together in a single vote takes a motion and second to group them as omnibus followed by unanimous consent (voice vote) of the corporate authorities – i.e., City Council members and the Mayor. A roll call vote on the omnibus package would follow based on the strictest requirements of any given ordinance or resolution. That is, if a supermajority is required by Ordinance Y included in the group to be voted on in omnibus fashion then it would take a supermajority to pass ALL of the items in the omnibus vote. If one of the items

in the omnibus requires the mayor's vote (the corporate authorities), then the mayor would vote as part of the single omnibus vote. In other words, different kinds of ordinances and resolutions may be combined but the voting requirements reflect the strictest item's provisions.

Within Urbana's current agenda structure using the Committee of the Whole, as set by City Ordinance, the committee report to council is broken into two section for the consent items:

#### **F. REPORTS OF STANDING COMMITTEES**

At this time, the City Council has only one standing committee referred to as the Committee of The Whole. The Committee of The Whole is comprised of all the City Council Members. The Committee of The Whole may typically address a proposed ordinance or resolution by:

1. Moving the draft ordinance or resolution onto the City Council's agenda with a recommendation to approve.
2. Moving the draft ordinance or resolution onto the City Council's agenda with no recommendation.
3. Not moving the draft ordinance or resolution onto the City Council's agenda.
4. Holding the draft ordinance or resolution in the Committee Of The Whole for further deliberation or because additional information is requested from City staff.

Items moved onto the City Council agenda may be sent in Regular Order or included on a Consent Agenda. The Consent Agenda is comprised of two or more ordinances and/or resolutions that may be considered by the City Council in omnibus fashion as discussed above.

As of November 2018, a consent agenda is in use for resolutions and ordinances that require a simple majority, are routine, and have unanimous support. Once the mechanisms are understood and worked out, more time can be saved by adding in those items requiring supermajority or corporate authority level voting. City code, Section 2-27, now includes Consent Agenda as standalone on the agenda. Note though that the City Council is free to suspend its rules if it sees fit.

To include an ordinance or a resolution on a consent agenda, the motion should state that the item be sent to the City Council with a recommendation for approval and that the City Clerk place the item on the consent agenda. If a motion at the Committee Of The Whole does not contain the request to the City Clerk to place an item on the consent agenda, the City Council will consider that item individually.

Council meeting agendas, under Reports of Standing Committees, there is a section for consent agenda items from committee as well as a section for individual items. The Council Member who served as the chair of the Committee of The Whole serves as the reporting chair. They would report the consent portion for omnibus vote and read the individual items (required by OMA). If any Council Member objects, including the Mayor, to any of the items being in the omnibus vote or something has come up affecting the item, the ordinance or resolution is automatically moved out for separate discussion and vote into the Regular Order portion. Then a motion accepting the "consent agenda" with any changes should be made by the reporting chair. This is followed by unanimous consent, including the mayor. The reporting chair would then move passage of the consent agenda (noting any changes), the usual second, and then a subsequent roll call vote after any

discussion desired for the package of items in the omnibus. The passage of an omnibus collection of items is based on the required number of votes of any included ordinance or resolution such as a super majority of the corporate authorities.

The efficiency of such omnibus procedures is gained only if there are 3 or more items because of the mechanics involved. However, if organized properly for a string of routine items, this can make meetings faster.

## **Other Duties of the City Clerk**

ORDINANCE NO. 7475-16 authorizes the City Clerk to appoint a Deputy City Clerk.

Section 1. The Corporate Authorities herewith and hereby authorize the City Clerk of the City of Urbana to appoint one Deputy Clerk. Section 2. The appointment of the Deputy Clerk shall be evidenced by a Certificate of Appointment duly signed by the City Clerk and filed in the office of the City Clerk. Section 3. Before entering upon the duties of Deputy Clerk, the person so appointed shall take and subscribe to the oath as required by law and shall execute a Bond with security, to be approved by the Corporate Authorities, made payable to the City of Urbana in the penal sum of ONE THOUSAND DOLLARS (\$1,000.00), conditioned upon the faithful performance of the duties of the office of Deputy Clerk, and the payment of all monies received by such Deputy Clerk according to law and the ordinances of the City of Urbana. Section 4. The Deputy Clerk so appointed under this ordinance shall execute all of the powers and perform all of the duties of the City Clerk at such times and in the manner prescribed by the City Clerk of the City of Urbana, or in the event of the temporary disability of the City Clerk as determined by the Corporate Authorities by Resolution duly adopted. Section 5. The appointment of Deputy Clerk may be revoked at any time by the City Clerk in the sole discretion of the City Clerk; the City Clerk shall report such to the City Council at its next regular meeting.

ORDINANCE NO. 7778-48 provides for the temporary naming of a City Clerk Pro-Tem. At any regular or special meeting of the Urbana City Council when neither the elected City Clerk nor the Deputy City Clerk is present, the City Council shall elect some person to act as City Clerk Pro-Tem for that meeting, or portion thereof, in the absence of the City Clerk and the Deputy City Clerk. The City Clerk Pro-Tem shall be elected by a majority of the aldermen and alderwomen present and voting. The Mayor shall vote on the question only if there is a tie vote. The City Clerk Pro-Tem shall discharge all of the duties of the City Clerk at such meeting. Minutes of the meeting shall be prepared by the City Clerk Pro-Tem and submitted to the City Council for approval at the next regular meeting of the City Council. Approval of such minutes by the City Council shall constitute such minutes as the full and proper record of its proceedings at such meeting.

## Office of the City Attorney

Congratulations on your election to the City of Urbana (the “City”) City Council. So ... what do you do now as you commence your responsibilities to your community?

As a member of the City Council, you are entrusted with the life, health, safety and welfare and property of the citizens of and those who work in and visit the City. What decisions you make will have short-term and long-term, and maybe profound, impact on your City, its government, residents, businesses, visitors, and neighbors. For returning Council members, the citizens of the City truly appreciate the fine work you have done and look forward to four more years of hard work. For those just elected to their first term, the citizens of Urbana honor and respect your strong desire and willingness to service. You will be continuing a very fine tradition of local government which has been a hallmark since the City was founded in 1833.

This section of the City Council Procedures & Orientation discusses a number of legal topics which impact and govern how the City operates and how you as an Alderperson and fellow Alderpersons conduct the business and affairs of the City. The following are discussed in this section:

1. HIERARCHY OF APPLICABLE GOVERNING LAW – Discusses how federal and state law impacts the City generally and the law’s limitations on the City.
2. CITY COUNCIL POWERS AND AUTHORITY – Discusses from where the City Council derives its powers and authority.
3. RULES OF PROCEDURE – Discusses City ordinances and City Council rules applicable to City Council and Committee of the Whole meetings.
4. OPEN MEETINGS ACT – Briefly discusses statutory issues which impact how the City Council and Committee of the Whole notices and conducts their meetings.
5. ADDITIONAL PROCEDURAL INFORMATION – Discusses additional procedural issues including suggested ways of dealing with abusive speech during the public input portions of meetings; application of Robert’s Rules of Order Revised; and authority of individual Alderpersons outside of properly noticed and conducted City Council and Committee Of The Whole meetings.
6. ROLE IN ADJUDICATORY PROCEEDINGS AND PUBLIC HEARINGS BEFORE CITY COUNCIL – Discusses how the City Council handles proceedings which address issues related to specific citizens such as zoning variances and special uses and historic preservation nominations.
7. CONFLICTS OF INTEREST – Discusses how Alderpersons handle conflicts of interest generally and those specifically identified by state statute.
8. ATTORNEY-CLIENT PRIVILEGE – Discusses the unique relationship between the attorneys (both those who work in the Legal Division and outside legal counsel who represent the City) and the City as the client.

It is important that you gain an understanding how a home rule municipality operates. Most importantly, you should prepare for each City Council and Committee Of The Whole meeting. Preparation should include studying the packet of information which you will receive several days prior to each regular or special meeting. For newly elected Alderpersons, it also would be most helpful for you to review this manual. This manual may also serve as a “refresher course” for returning Alderpersons. Hopefully, this manual will serve as a useful resource to get you started in and throughout your service to the City.

## **1. HIERARCHY OF APPLICABLE GOVERNING LAW**

The City of Urbana and its City Council are governed by several sources of law including:

- a. U.S. Constitution;
- b. Federal statutes, rules, regulations, and government agency opinions in varying degrees;
- c. Illinois Constitution of 1970;
- d. Illinois State Statutes;
- e. Illinois rules, regulations, and government agency opinions in varying degrees; and
- f. City of Urbana City Code of ordinances.
- g. City Council Rules.

United States Constitution: While the U.S. Constitution governs the federal government, certain amendments have a direct impact on how local government operates. For example –

- a. The First Amendment prohibits the establishment of government-sponsored religion, limitations on the exercise of free speech and press, limitations on peaceable assembly, and limitations on petitioning government for redress of grievances.
- b. The Second Amendment prohibits government from infringing on the people’s right to bear arms.
- c. The Fourth Amendment prohibits unreasonable governmental searches and seizures of individuals and property and requires that search and seizure warrants be issued based upon a showing of probable cause. The Fourth Amendment limitations on searches and seizures, for example, limits when and how the City conducts a search of private property for life-safety code violations.
- d. The Fifth Amendment prohibits the government from compelling a person in a criminal matter, including an ordinance violation case, to testify against him/her self and prohibits the deprivation of life, liberty or property without due process of law. Likewise, the taking of private property without just compensation is prohibited. Eminent domain actions involve the taking of property by government.
- e. The Fourteenth Amendment makes many of the protections afforded under the U.S. Constitution applicable to the states and, therefore, municipalities including those protections afforded under the First, Second, Fourth, and Fifth Amendments as well as

laws protecting civil rights.

Federal Statutes, Rules, Regulations, and Government Agency Opinions: Federal law, to varying degrees, depending on the particular laws, applies to the operation of municipalities. For example, the City, like every other person, may not engage in unlawful discriminatory conduct. The City's receipt, management and use of federal money is governed by the respective federal statutes and federal agency rules and regulations pursuant to which those funds are made available to the City.

Illinois Constitution of 1970: Article I of the Illinois Constitution of 1970 contains the Bill of Rights which are substantially similar to the first ten amendments and the Fourteenth Amendment to the U.S. Constitution. Article VII of the Illinois Constitution governs municipalities and other units of local government such as counties and townships. Article VII, § 6 governs home rule municipalities. Article VII, § 7(i) provides:

Home rule units may exercise and perform concurrently with the State any power or function of a home rule unit to the extent that the General Assembly by law does not specifically limit the concurrent exercise or specifically declare the State's exercise to be exclusive.

Except as provided in the Illinois Constitution or a specific statute, home rule municipalities have broad powers. However, home rule municipalities do not have the power to incur debt payable from property taxes where such debt is to mature more than 40 years after it is incurred. Ill. Const. Art. VII, § 7(e). Likewise, the Illinois Constitution prohibits home rule municipalities from defining what constitutes a felony and providing for punishment of felonies. Further, a number of state statutes expressly limit a municipality's home rule powers. For example, home rule municipalities cannot lower the age for purchasing or possessing alcoholic liquor below age 21. 235 ILCS 5/6-16. The City of Urbana is a home rule municipality.

Illinois Statutes: Generally, the City is subject to those statutes which are applicable to municipalities. However, as a home rule unit of local government, the City has the constitutional authority to pass ordinances which may differ from state statute unless (i) the relevant state statute contains a provision which expressly preempts the City's home rule authority and (ii) the Illinois Constitution vest no authority in home rule municipalities to take the action contemplated (e.g., defining what constitutes a felony). The Illinois Municipal Code (65 ILCS 5/1-1 *et seq.*) is a primary, albeit not the exclusive, source of municipal powers and authority.

Urbana City Code: The Urbana City Code (cited as "UCC") represents the code of ordinances which the City Council has adopted and which govern conduct within the City. These ordinances also provide direction on how the City's elected and appointed officials and employees conduct the business and affairs of the City. The City Council has fairly wide latitude in what ordinances it may adopt. Again, the City Council's authority is constrained by Article VII, § 6 of the Illinois Constitution of 1970 and those statutes where the state has specifically preempted a municipality's authority. Some examples of broad City Council authority include setting fines and fees, regulating hours of operation, adopting and amending the Zoning Ordinance, approving development agreements, amending past ordinances, passing resolutions, and approving the annual budget and the annual property tax levy. The Urbana City Code can be found on the City's website at: [https://www.municode.com/library/il/urbana/codes/code\\_of\\_ordinances](https://www.municode.com/library/il/urbana/codes/code_of_ordinances).

Rules and Regulations: Federal and state administrative agencies have adopted a myriad of rules and regulations pursuant to statutes which have created those administrative agencies. For example, the Illinois Environmental Protection Agency and its federal counterpart have adopted numerous rules and regulations governing environmental issues with which the City must comply.

## **2. POWERS AND AUTHORITY**

The City Council's powers and authority are derived from the state constitution and statutes and City ordinances. Thus, it is important to assure that ordinances and resolutions adopted by the City Council comply with applicable laws. For example, the City Council (as of January 1, 2020) has the authority to reasonably regulate through its zoning ordinance the location of cannabis dispensaries (410 ILCS 705/55-25) but does not have authority to prohibit the consumption of cannabis by adults in private or the possession of up to 30 grams of cannabis flower (410 ILCS 705/10-5, 10-10).

The City Council serves in two general but essential functions – i.e., (i) legislative capacity; and (ii) administrative/adjudicatory capacity. These two functions are separate and distinct.

In its legislative capacity, the City Council adopts legislation – i.e., ordinances, resolutions and motions. In its administrative/adjudicative capacity, the City Council considers matters which determine the rights and remedies of specific persons.

## **3. RULES OF PROCEDURE**

The City Council has adopted a number of rules to govern its proceedings which are contained in this manual covering specific topics such as Public Meetings. Also included in this manual is a set of resolutions which further describe how the City Council conducts its business (Res. No. 93-94-R30; Res. No. 8182-R12; Res. No. 2004-09-019R; Res. No. 7980-R33). Ordinances governing the City Council and its operations are specifically found in this manual and at UCC Secs. 2-23 *et seq.*

As discussed elsewhere in this manual, Alderpersons meet in two capacities – as the City Council and as a Committee Of The Whole. The general purpose of the Committee Of The Whole is to allow for initial consideration and more in-depth discussion of matters while the City Council meets to take action (approve or reject) matters. Essentially, after deliberation on a matter, the Committee Of The Whole will (i) vote to move the matter on to the City Council with or without any recommendation for approval; (ii) vote to keep the matter in the Committee for further consideration; or (iii) take no action thereby ending consideration of the matter. The City Council has the authority to amend any proposed ordinance or resolution which is advanced by the Committee Of The Whole to the City Council. The City Council may defer matters to their next meeting upon the request of two or more Alderpersons through the making of a motion to defer followed by a second of that motion. Any subsequent deferral of a matter by the City Council requires the vote of three-fourths (3/4<sup>th</sup>) of the Alderpersons then present. The City Council also has the authority to refer a matter back to the Committee Of The Whole for further consideration. Ultimately, only the City Council has the authority to take final action on any matter.

Regular City Council meetings are held on the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Mondays of each month. UCC Sec. 2-25. The Committee Of The Whole meets on the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Mondays of each month. UCC Sec. 2-28. No regular meetings are scheduled for the fifth (5<sup>th</sup>) Monday of any month. Meetings convene at 7:00 p.m. UCC Sec. 2-25(a). The Committee Of The Whole does not take final binding action on any ordinance or resolution. If a regular meeting date falls on a holiday, then the meeting is held the Tuesday after the holiday. The following holidays are "legal holidays" when City offices (except for essential services) are closed: New Year's Day, Martin Luther King, Jr.'s Birthday, Spring Day (the Friday preceding Easter), Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day (Thursday and Friday), Christmas Day. Special meetings of the City Council may be called by three (3) Alderpersons or the Mayor. All regular and special meetings (including notices and agendas) are governed by the Open Meetings Act. 5 ILCS 120/1 *et seq.* The City Council will also receive ordinances and resolutions directly from several of its boards and commissions such as Plan Commission. These can be acted on just as if they had been sent from Committee Of The Whole as described above.

UCC Sec. 2-30 provides for voting procedures. This Section states:

- (a) To enact any ordinance for whatever purpose, or any resolution or motion (1) to create any liability against the city, or (2) for the expenditure or appropriation of its money (unless any extraordinary majority is required under state statutes or city ordinances), a majority of the alderpersons then holding office must vote "yes" or "aye."
- (b) The passage of any resolution or motion not within the above description shall require the "yes" or "aye" vote of a majority of the alderpersons present and voting when a vote on the measure is taken and the mayor when the mayor is authorized to vote because of a tie.
- (c) (1) Abstentions, if for reason of a stated conflict of interest, shall be recorded by the city clerk as "abstained" and shall not be recorded as either an "aye" or a "nay" vote, and shall not be ruled by the chair as "going with the majority."  
  
(2) If an abstention or 'pass' vote is not based upon an asserted conflict of interest, then such vote shall be recorded by the city clerk as "abstained" but the mayor shall rule that such vote "goes with the majority" of those votes actually cast as an "aye" or "nay" vote.
- (3) Each council member shall have the right to abstain by reason of a stated conflict of interest based upon his or her own assessment of the existence of such conflict of interest and the city council shall have no right to overrule such council member's determination.
- (d) When state statutes or city ordinances, in order to enact an ordinance, resolution, motion, or upon reconsideration after veto and return thereof by the mayor, require an extraordinary majority to vote "aye", the following procedures shall be applicable in calculating the extraordinary majority:
  - (1) Abstentions, if stated by the alderperson to be for reason of conflict of interest, shall not be counted as either an "aye" or "nay" vote and members abstaining shall not be counted in determining the total to which the

percentage of votes required is applied in determining number of votes for passage, any statute, ordinance or rule of parliamentary procedure to the contrary notwithstanding;

(2) However, no such ordinance, resolution or motion shall be deemed to have passed the city council unless such ordinance, resolution or motion receives an "aye" vote from at least a simple majority of the aldermen/alderwomen then holding office.

UCC Sec. 2-31 allows for electronic attendance at Council and Committee of the Whole meetings under certain circumstances. If you are unable to be physically present at a City Council or a Committee of the Whole meeting, you should review UCC Sec. 2-31 to determine if you are eligible by right to attend by electronic means (Appendix 3) All public meetings include an opportunity for public comment as part of the Open Meetings Act.

#### **4. OPEN MEETINGS ACT**

The Open Meetings Act (“OMA”) governs all regular and special meetings of the City Council, Committee Of The Whole and all commissions, boards and task forces created by the City Council. 5 ILCS 120/1.02. The overriding policy and purpose of the Act is to assure, to the maximum degree reasonable, that all City Council, Committee of the Whole, City Commission, City Board, and City task force business is considered and conducted openly so that citizens can be informed about the business which the City conducts. The Illinois General Assembly has declared:

In order that the people shall be informed, the General Assembly finds and declares that it is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.

5 ILCS 120/1. The term “meeting” is defined as –

any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business ...

*Id*, emphasis supplied. For the City, a majority of a quorum includes three (3) or more Alderpersons or the Mayor and two (2) or more Alderpersons. (The Illinois Municipal Code defines “corporate authorities” as including Alderpersons and the Mayor. 65 ILCS 5/1-1-2.)

The more difficult part of the OMA to apply is when “contemporaneous interactive communication” occurs. Suffice it to say, the OMA will apply when the following elements are present:

- The verbal, e-mail, or text communication involves some aspect of City business; and
- At least three (3) elected officials (excluding the City Clerk) participate in the verbal or electronic communication; and

- The communication between and among the elected officials, regardless of who else may be present, can be deemed or construed as a contemporaneous interactive communication.

The following communication scenarios would constitute a “meeting” as defined in OMA:

- Three Alderpersons or two Alderpersons and the Mayor happen to be attending the same party or by chance meet on the street. They begin discussing some aspect of City business.
- Two Alderpersons confer by phone about some aspect of City business. Ten minutes later, one of them contacts another Alderperson or the Mayor to discuss that same item.
- One Alderperson sends an e-mail or a text message to two other Alderpersons that discusses some aspect of City business. About an hour later, the second Alderperson sends an e-mail or a text to yet another Alderperson that discusses that same aspect of City business.
- Alderperson A sends Alderperson B a text message that discusses City business. Alderperson B, a day later, forward to Alderperson C Alderperson A’s text message. Three days later, Alderperson C forwards Alderperson A’s text message.
- Alderperson A sends an e-mail to Alderperson B and the Mayor regarding proposing a resolution at the next Committee Of The Whole meeting.
- Alderpersons A, B and C decide to attend a Zoning Board of Appeals meeting but decide to “get their ducks in order” insofar as how they will speak at that meeting.

There is a huge number of situations where the OMA may be implicated. Periodically, the Illinois Attorney General or his/her Public Access Counselor will issue an opinion on what constitutes a contemporaneous interactive communication in violation of the OMA. If you have any doubt whatsoever whether a communication between you and two or more other Alderpersons or you, the Mayor and one or more other Alderpersons may give rise to an OMA violation, the better part of valor is to refrain from initiating that communication.

Other sections of the OMA deal with when, where and how meeting notices must be given, meeting agendas, and public comment. The OMA also allows the City Council and the Committee of the Whole to go into closed session (i.e., exclude the public from attending) portions of meetings to discuss certain, albeit, limited topics. 5 ILCS 120/2(c). However, the Public Access Counselor in the Attorney General’s office strictly construes the various exceptions which allow for closing of meetings. The Act also provides for the procedure for closing a meeting. 5 ILCS 120/12a. The City Council may not take any action, if any is to be taken, during the closed portion of any meeting. All final action (voting on a motion, resolution or ordinance) must occur during an open session of a meeting. 5 ILCS 120/2(e). Please note, that final action does not include votes taken during Committee of the Whole meetings to move matters on to the City Council or to keep them in Committee since those votes do not constitute final action.

*All elected officials are required to complete OMA electronic training within 90 days after the later of when the official takes the oath of office or assumes responsibility as an Alderperson if no oath of office is required.*

Training can be found at: <https://foia.ilattorneygeneral.net/CreateAccount.aspx>

## **5. ADDITIONAL PROCEDURAL INFORMATION**

This manual contains sections that deal with handling abusive speech from the audience and that discusses the Mayoral Veto and Veto Override.

The Mayor has the authority to veto City Council-adopted ordinances, resolutions and motions. However, the City Council has the power to override a Mayoral veto. Sections 3.1-40-45 and 3.1-40-50 govern how vetoes are implemented and overridden. 65 ILCS 5/3.1-40-45; 3.1-40-50. Section 3.1-40-45 provides that the Mayor may veto a Council-adopted ordinance, resolution or motion by returning the enactment to the City Council with the Mayor's written objections to the action. The veto and written reasons therefor must be delivered to the City before its next City Council meeting. Section 3.1-40-50 describes how the City Council may override a Mayoral veto. The City Council must consider the matter which the Mayor vetoed and may override that veto by a vote of two-thirds (2/3<sup>rd</sup>) of all Alderpersons then holding office on the City Council. The above-described process involves three separate City Council meetings: (i) the meeting at which the action in question was approved; (ii) the meeting at which the Mayor returns the ordinance or resolution unsigned accompanied by his/her written objections; (iii) the meeting at which the City Council considers and votes on whether to override the Mayor's veto.

The Urbana City Council generally follows Roberts Rules of Order modified by ordinance and resolution as note in Council Rules and Chapter 2 of the City Code (Appendices 1-3). This manual contains a quick summary of Parliamentary Procedure. Included is a chart which outlines the number of Aldermanic votes required for various City Council actions.

*It must be remembered that City Council members, individually, have **no** authority to take any action on behalf of the City or bind the City into any agreement or other obligation unless the City Council has approved that action and authorized that member to act on behalf of the City. Only the City Council, at a duly convened regular or special meeting of the City Council, has the authority to take some form of action which can bind the City to take an action, expend or receive revenue or grant funds, or to an agreement or other obligation.*

The City Council and Committee of the Whole have the authority to take "omnibus votes." This process, as well as the "consent agenda" process are discussed in more detail in another part of this manual.

## **6. ROLE IN ADJUDICATORY PROCEEDINGS & PUBLIC HEARINGS BEFORE CITY COUNCIL**

Occasionally, the City Council acts in an administrative or an adjudicative capacity. In its administrative/adjudicatory capacity, the City Council considers recommendations made by certain City commissions (e.g., Planning Commission, Zoning Board of Appeals, and Historic Preservation Commission) which will directly affect the rights of one or more specific property owners. (In contrast, when the City Council acts in a legislative capacity, it adopts ordinances which have prospective effect within the boundaries of the City and which are generally applicable all persons throughout the City.) When considering such a recommendation, the City Council receives input from the parties directly interested in the matter presented as well as from City staff. Further,

interested citizens may provide information during the public input portion of the meeting, at the time the matter is considered by the City Council, or during a public hearing conducted by the City Council.

When acting in its administrative/adjudicatory capacity, members of the City Council must exercise due care to assure that all parties to the proceeding receive due process. Due process requires that Alderpersons provide a fair and impartial hearing. Thus, while an Alderperson may have a strong interest in the matter at hand or may have received strong communications from his/her constituents, he/she must use extreme caution to remain open minded on the issue until he/she has received all the relevant information at the City Council meeting necessary to make a well-reasoned decision. Thus, the Legal Division cautions members of the City Council to refrain from offering information or their view points before the commission initially dealing with the matter and before all the information has been presented to the City Council. When deliberating on a matter, Council Members must consider the matter in a manner consistent with Illinois law. For example, on certain types of zoning matters, the law applies a number of criteria set forth by the Illinois Supreme Court in order that must be considered by the City Council when deciding whether to approve the zoning matter. (City staff will discuss those criteria either during the Council meeting when the zoning matter is present or in the staff memorandum that relates to the matter.) Council Members should not consider matters unrelated to the criteria set forth by the Illinois Supreme Court. Once in receipt of all the information, the City Council can debate the matter and, ultimately, vote on whether to accept or reject the respective commission's recommendation. A failure to assure that all parties to the proceedings are afforded due process creates a serious and significant risk to the City.

## **7. CONFLICTS OF INTEREST**

The Urbana City Code provides guidelines and prohibitions regarding conflicts of interest and gifts. UCC Secs. 2-201 *et seq.* Alderpersons are urged to carefully review (in the case of newly elected members) and re-review (in the case of re-elected members) these ordinances (Appendix 7).

State statutes also prohibit certain conflicts of interest. For example, any Alderperson who has any ownership or financial interest in any establishment or business which sells, dispenses or serves alcoholic beverages is prohibited from participating in any discussion, debate, deliberation, and vote on any ordinance or resolution which involves alcoholic beverages – e.g., licensing of new establishments, designating hours of operation, requirements for BASSET training, etc. 235 ILCS 5/6-2(a)(14)(iv). As another example, Alderpersons who have an ownership or a controlling interest in any real estate located in a proposed TIF district must recuse him/her self from any and all discussion, debate, deliberation, and vote to authorize the creation of such district. 65 ILCS 5/11-74.4.4(n). Likewise, an Alderperson may not acquire any direct or indirect interest in any real estate in a redevelopment area or proposed redevelopment after the earlier of receiving information or knowledge about such plan, project or area or the first public notice of such plan, project or area. *Id.* The TIF statute also includes certain disclosure requirements regarding ownership and interest in such property.

## 8. ATTORNEY-CLIENT PRIVILEGE

From time to time, the City's Legal Division may provide you with information regarding a legal matter. If the matter is deemed by the Legal Division to be sensitive such that disclosure of information regarding the matter would harm or compromise the City's position on the matter, the Legal Division will advise that the information is covered by or subject to the "attorney-client privilege." Since the Legal Division represents the City's legal interests and not any particular Alderperson's legal interests, Alderpersons are obligated to honor and protect such privilege. The City has the authority and right to waive the "attorney-client privilege." However, no individual Alderperson has the authority to waive the "attorney-client privilege" or disclose privileged information which he/she receives from the Legal Division. The only way in which the City's "attorney-client privilege" may be waived is by a vote of a majority of a quorum of the City Council at a duly convened meeting.



## **APPENDIX 1 - Council Rules**

### **City Council and Committee Rules (Resolution 2017-07-045R, amended by Resolution 2019-12-055R)**

#### **Rule 1. Agenda Preparation**

The City Clerk shall create a written agenda for each City Council and Committee meeting and such agendas shall be prepared in accordance with the Open Meetings Act. Items shall be placed on the printed agenda for any City Council or Committee meeting in any of the follows ways:

- (a) City Council Meetings: Any item, whether or not such item requires final action by the City Council, shall be placed on the City Council's meeting agenda:
  - i. at the request of the Mayor or two or more Alderpersons; or
  - ii. by an affirmative vote by the Committee to move an item forward to the City Council.
  
- (b) Committee meetings: Any item, whether or not such item requires an action to place it on the City Council's agenda for final action as provided in Subsection (a)ii of this Rule, shall be placed on a Committee meeting agenda at the request of:
  - i. the Mayor; or
  - ii. the person who will chair the Committee meeting at which such item is to be considered; or
  - iii. one or more members of the Committee.

Notwithstanding the foregoing, if an agenda item previously appeared on a Committee agenda and was discussed by the Committee, but no other action was taken, such item may be placed on a subsequent Committee agenda at the request of two members of the Committee.

#### **Rule 2. Order of Meetings**

No Committee of the City Council shall meet on a day and prior to when a regular City Council meeting is scheduled to occur. However, a special City Council meeting may be convened on the same day and prior to a regularly scheduled Committee meeting. Nothing in the foregoing shall be deemed or construed to prohibit the convening of a special City Council meeting to consider and take action on a matter which, if not attended to, may or will threaten human life, health, safety, or welfare or property or where time is of the essence regarding the City Council's consideration of or final action on one or more matters.

#### **Rule 3. Debate Limits**

- (a) No discussion or debate shall proceed on any action item on the City Council's agenda unless and until the action item has received a motion to approve followed by a second

to that motion. However, the immediate aforesaid rule shall not apply to items appearing on Committee agendas.

- (b) At all meetings of the City Council and a Committee, whether regular or special, each member of the corporate authorities and the Committee, as case may be, shall be limited to speaking only twice on each agenda item, and not more than three (3) minutes each time. The Mayor and the Chair of the Committee may provide information and clarification regarding agenda items and other issues and topics of discussion as they arise as well as participate in discussion and debate on the same. In order for the Mayor and the Chair of the Committee to participate in discussion and debate, he/she shall yield the chair to a Council or Committee member, as the case may be.
- (c) Nothing in Subsections (a) and (b) of this Rule shall be deemed or construed as limiting the amount of time in which a member of the corporate authorities or a Committee, as the case may be, may ask questions of a member of the public, City staff, or other person who is scheduled or who has requested to present information on an agenda item or, in the case of public input, on any matter presented during the public input portion of the meeting.
- (d) The City Council, the Committee of the Whole, and other City Council Committees composed solely of the corporate authorities may, by a majority vote of the members thereof, extend or otherwise alter the debate time limits provided in this Rule.

#### **Rule 4. Draft Resolutions and Ordinances Presented by Alderpersons and Committee Members**

In those instances where an Alderperson or Committee member seeks adoption of a resolution or an ordinance and has a draft document, the Alderperson or said member shall provide a copy of the same to the City Clerk who will include it in the meeting packets for distribution to Alderpersons or Committee members, as the case may be, and post it on the appropriate meeting website. Optionally, the member may ask the Clerk to forward the item to appropriate staff for a specified level of review and editing. For topic title inclusion on the agenda and materials provided in packets, members may consult the City Clerk's schedule.

#### **Rule 5. Appointments**

All appointments to City commissions, boards and task forces, and all appointments of non-Civil Service City Officers, shall be submitted, in writing, and with vita, to the City Council with the regular distribution of the agenda and other materials prior to the City Council meeting at which said appointments are to be acted upon. The requirement for inclusion of vita shall not apply to reappointments to City commissions, boards and task forces or to reappointments of non-Civil Service City Officers.

#### **Rule 6. Committee of the Whole Chair**

- (a) The Chair of the Committee of the Whole position shall rotate among the Alderpersons of each Ward in numerical order of such Wards beginning after the swearing in of Alderpersons following an aldermanic election or appointment with Ward 1 and

following through Ward 7. The Vice-Chair shall be the Alderperson of the Ward that bears the next highest number, except Ward 1 shall follow Ward 7.

- (b) The Chair shall be in office from the time of adjournment of that Council meeting which precedes the Committee meeting for which the Chair shall serve and shall continue through adjournment of the subsequent City Council meeting. The Vice-Chair shall be in office only during a meeting where the scheduled Chair is not in attendance, where the Chair relinquishes to enter debate, or as delegated by the Chair.
- (c) The Committee of the Whole shall not be bound or limited by Robert's Rules of Order with respect to propriety of motions that can be made. Any parliamentary motion that would be in order at a regular City Council meeting shall be in order at a meeting of the Committee of the Whole.
- (d) Since the Committee of the Whole is not vested with authority to take final action, all proposed motions, resolutions and ordinances that receive a second shall be voted upon by voice vote. If it is unclear as to the tally of votes by voice vote, then the Chair shall call for a vote by a show of hands.

#### **Rule 7. Time Limits for Presentations Made at the Invitation of City Council or a Committee**

Presentations made at the request or invitation of the City Council or a Committee, as the case may be, shall be limited to no more than ten (10) minutes per presentation regardless of the number of individuals who respond to the request or invitation. The City Council or the Committee, by a majority vote of their respective members, may extend the time limits provided in this Rule for a specified additional amount of time.

Nothing herein shall be deemed or construed as amending or modifying Urbana City Code Section. 2-4. - Public meetings, concerning time limitations for addressing the City Council or a Committee during the public input portion of their respective meetings.

#### **Rule 8. Observance of Rules**

Unless directed otherwise, all City Council Committees composed solely of the corporate authorities shall follow the procedures set forth in these Rules. These Rules are adopted to expedite the transaction of the business of the City Council in an orderly fashion during City Council and Committee meetings and are deemed to be procedural only. The failure to strictly observe such Rules by the City Council or a Committee shall neither affect the jurisdiction of these public bodies nor invalidate any action taken by any of them at a meeting that is otherwise held in conformity with law.

#### **Mandatory Adjournment. (Resolution No. 7980-R33 amended by No. 2017-06-043R)\***

There shall be a mandatory adjournment at 10:30 P.M.; provided, however, the meeting may be extended until 11:00 P.M. by a two-thirds (2/3rds) vote of the aldermen/alderwomen present, and may be extended for an additional thirty (30) minutes beyond 11:00 P.M. by a two-thirds (2/3rds) vote of all aldermen/alderwomen present.

\*If a mandatory adjournment is about to occur, the meeting may be “continued” to a time certain without violating the open meetings act. The act says:

“The requirement of public notice of reconvened meetings does not apply to any case where the meeting was open to the public and (1) it is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda.”

So for example, at a meeting someone could move to recess the meeting or continue the meeting until 6 pm the following night or at a date/place certain when members are available. If this is not done, the meeting is adjourned automatically and any unfinished items will require another meeting announced in compliance with the OMA.

**Reciting the Pledge (Resolution No. 8687-R16).**

That the next regularly scheduled City Council meeting after the date on which any of the following described federal holidays are celebrated shall be opened with the Pledge of Allegiance:

Memorial Day  
Flag Day  
Independence Day  
Veteran’s Day

## **APPENDIX 2**

### **Code of Ordinances**

#### *Article I – In General*

#### *Article II – Elected Officials*

#### *Public Meetings Ordinance*

### **City of Urbana Officials and Employee Ethics Ordinance**

**Code of Ordinances, Chapter 2 - ADMINISTRATION,  
ARTICLE I. - IN GENERAL**

Sec. 2-1. - Municipal and fiscal year.

The fiscal year for the city shall commence on the first day of July of each year and end on the thirtieth day of June of each year. The municipal year shall coincide with the fiscal year unless otherwise specified.

(Code 1975, § 1.12)

Sec. 2-2. - Corporate seal—Description.

The corporate seal of the city shall be circular in form, with the words, "Seal of the City of Urbana, Ill., Chartered 1855" on the outer circle, and in the interior and center of such circle there shall be a scroll and the words "Organized Under General Law, 1873," all engraved on the face of such corporate seal and as depicted on the cover of this Code.

(Code 1975, § 1.13)

Sec. 2-3. - Same—Use generally.

The corporate seal shall be used as such seal in all cases that shall be provided by law or the ordinances of the city, and in all other cases in which by law custom it is usual and necessary for the city to use a seal. The corporate seal shall remain in the custody of the city clerk. The city clerk shall prepare all commissions or other official documents required to be issued, and affix the corporate seal thereto and attest or countersign the same. The clerk shall affix the corporate seal to all official acts of the mayor requiring it, and if necessary, attest and countersign the same. The clerk shall certify, under the corporate seal, copies of all records, documents or papers in the clerk's office when required by any officer or other person, but in no case shall the impression of the corporate seal be binding upon the city unless it is authorized by law and is attested by the signature of the city clerk.

(Code 1975, § 1.14)

**ARTICLE II. - ELECTED OFFICIALS**

DIVISION 2. - CITY COUNCIL<sup>12</sup>

Sec. 2-23. - Term of office.

Municipal officers who are elected at the general election conducted for municipal offices in the City of Urbana, shall be installed and commence their term at the first regular or special meeting in the month of May following their election.

(Ord. No. 8081-90, § 1, 3-16-81)

Sec. 2-24. - Composition.

The city operates under the mayor-aldermanic form of government. The city council shall consist of the mayor and seven (7) aldermen, elected for four (4) year terms as provided by state law. The terms “alderman,” “alderwoman,” “alderperson,” or “city council member,” and their respective plurals, shall be acceptable for use as a title by the elected or appointed representatives of each of the wards. Each member may direct which of the terms shall be used by the clerk in the official records, journals, and procedures of the city council to record such members' official conduct. As used in this Code, the words “alderman,” “alderwoman,” “alderperson,” or “city council member” shall be construed and considered to have full and equal legal affect and be synonymous.

(Code 1975, § 2.1; Ord. No. 2005-07-092, § 1, 7-18-05) (Ord. No. 2017-07-043, 8-8-17)

**State Law reference** — Composition of council, 65 ILCS 5/3-11-9; election of aldermen/alderwomen, 65 ILCS 5/3-4-7 et seq.

Sec. 2-25. - Meetings.

(a) The regular meetings of the city council shall be held on the second and fourth Mondays of each month during the year, except when such Monday shall happen to be a legal holiday, in which case the city council shall meet on the first Tuesday evening following. The regular meeting of the city council shall be convened at the hour of 7:00 p.m., or at such time thereafter upon the adjournment of a scheduled public hearing, township board meeting, or other duly scheduled business of the council. The term “legal holiday” as used shall mean the following days only:

- (1) New Year's Day;
- (2) The Friday preceding Easter;
- (3) Memorial Day;
- (4) Independence Day;
- (5) Labor Day;
- (6) Veterans Day;
- (7) Thanksgiving Day;
- (8) The day following Thanksgiving;
- (9) Christmas Day;
- (10) Martin Luther King, Jr.'s Birthday.

(b) A meeting of the city council may be cancelled or rescheduled by:

- (1) a motion passed by a majority vote of the city council members then holding office;
- (2) one or more written communications to the city clerk in which a majority of the city council members then holding office request the cancellation or rescheduling of a meeting; or
- (3) a written communication to the city clerk from the mayor which states that:
  - a. the mayor anticipates a lack of a quorum; or
  - b. there are no agenda items to be considered for final action; or
  - c. an emergency exists or will exist at the time when the meeting is to be convened which affects or which is expected to threaten human life, health, safety, or welfare.

(c) A meeting of the committee of the whole may be cancelled or rescheduled in the same manner as a meeting of the city council except that where written communication is required from city council members, such communication shall be required of committee of the whole members, and where communication is required from the mayor, such communication shall be required of the then sitting chair of the committee of the whole.

(d) Special meetings may be called by the mayor or by any three (3) members of the city council whenever in the mayor's or their opinion it may be deemed necessary, in which event it shall be the duty of the mayor to cause every member of the city council to be served with notice of such special meeting, either by personal service or by leaving such notice at the member's usual place of business or residence, which notice shall state the date, time and purposes of such meeting. No business shall be transacted at any special meeting except as is stated in the notice and the agenda for the meeting. Alderpersons who provide written request to be notified by an electronic transmission means available to the city clerk of special council meetings shall be notified at an address provided for such transmission at least twenty-four (24) hours before the start of any special council meeting.

(e) No member of the city council, employee of the city, or any other person shall disclose to any other person the content or substance of any closed meeting or session except as provided for in the Open Meetings Act or as authorized by five (5) council members.

(Code 1975, § 2.2; Ord. No. 8081-52, §§ 1, 2, 11-17-80; Ord. No. 8081-90, § 2, 3-16-81; Ord. No. 8687-32, 10-20-86; Ord. No. 2005-07-093, § 1, 7-18-05) (Ord. No. 2017-06-033. 7-21-17)

**State Law reference**— Authority to prescribe times of council meetings and manner in which special meetings may be called, 65 ILCS 5/3-11-13; meetings of public agencies, 5 ILCS 120/1 et seq.

Sec. 2-26. - Mayor pro tem.

- (a) The city council shall elect one of its members as mayor pro tem, who, while remaining in office shall continue to serve as mayor pro tem until another member is elected and assumes the duties of mayor pro tem. If a temporary absence or disability of the mayor incapacitates the mayor from the performance of the mayor's duties but does not create a vacancy in the office, the mayor pro tem shall perform the duties and possess all the rights and powers of the mayor according to state law.
- (b) If both the mayor and mayor pro tem are temporarily absent or incapacitated, for purposes of authority to respond to emergency matters, the office of mayor pro tem shall devolve upon the person then holding office of alderperson of the First Ward, or if such person is also absent or incapacitated, then the office of mayor pro tem shall devolve upon the person then holding office of alderperson for the Second Ward and so forth through the persons then holding office of alderperson for each of the wards in numerical order until an alderperson who is not absent or incapacitated is located to perform the duties of mayor pro tem until the incapacity or absence of the mayor or mayor pro tem elected by the council is no longer in existence.

(Ord. No. 9495-89, § 1, 3-20-95)

**State Law reference**— Duties of mayor pro tem, Ill. Rev. Stat. Ch. 24, § 3-11-7; election and duties of chairperson pro tem in absence of both mayor and mayor pro tem, Ill. Rev. Stat. Ch. 24, § 3-11-15.

Sec. 2-27. - Rules for deliberations.

The following rules for the government of the deliberations of the city council are hereby adopted:

- (1) The city council shall determine its own rules of proceeding, which rules must be adopted and approved by a two-thirds vote of all the members of the council, and no such rule may be repealed, annulled, amended, abridged, modified or suspended except by a two-thirds vote of all the members of the council. On all points of order not otherwise specifically provided for in such rules of proceeding, "Robert's Rules of Order," as may from time-to-time be revised, is adopted and made the law governing the deliberations of the city council.
- (2) The order of business of all regular meetings of the city council shall be as follows:
  - a. Call to Order
  - b. Approval of minutes of the proceedings of regular and special meetings.
  - c. Additions to agenda.
  - d. Presentations and Public Input.
  - e. Unfinished business.
  - f. Reports of standing committees.
    1. Consent agenda
    2. Regular agenda
  - g. Reports of special committees.
  - h. Reports of officers.
  - i. New business.
  - j. Adjournment.
- (3) Whenever it shall become necessary for a number smaller than a majority of the city council to compel the attendance of absentee members in order to constitute a quorum to do business, a fine of two hundred dollars (\$200.00) may be imposed upon any such absentee member for failure to so attend.
- (4) At any meeting of the city council, upon the making of and second to a motion (whether phrased as a "motion to defer" or otherwise), the effect of which would be to postpone consideration of any agenda item to the next regular meeting of the council, which such agenda item is then before the city council for the first time by motion made and seconded, any such agenda item shall be automatically deferred for final action thereon to the next regular meeting of the city council, unless upon the making of and second to a subsequent motion, three-fourths ( $\frac{3}{4}$ ) of those aldermen/alderwomen present vote to consider such deferred item at a special meeting to be called and held before the date of the next regular meeting.

(Code 1975, § 2.3; Ord. No. 7980-90, § 1, 4-21-80; Ord. No. 7980-113, § 6(B), 6-16-80; Ord. No. 8081-40, 10-6-80; Ord. No. 2005-07-094, § 1, 7-18-05) (Ord. No. 2017-06-033. 7-21-17)

**Editor's note**— Section 1 of Ord. No. 7980-90, enacted Apr. 21, 1980, amended § 2.3(5) of the 1975 Code; said provisions have been included herein as § 2-27(4) by the editors.

In addition, Ord. No. 8081-40, enacted Oct. 6, 1980, amended the ordinance previously establishing the order of business of all regular meetings of the city council. The editor has construed this as amendatory of § 2-27(2).

**State Law reference**— Authority to determine rules, Ill. Rev. Stat. Ch. 24, § 3-11-11; quorum, compelling attendance, Ill. Rev. Stat. Ch. 24, § 3-11-12; mayor as presiding officer, Ill. Rev. Stat. Ch. 24, § 3-11-14; chairperson pro tem, Ill. Rev. Stat. Ch. 24, § 3-11-15; deferment of committee reports, Ill. Rev. Stat. Ch. 24, § 3-11-16.

Sec. 2-28. - Committee.

To afford the opportunity to more thoroughly examine matters under consideration, the city council shall meet regularly on the first and third Mondays of each month as a committee of the whole, except when such Monday shall happen to be a legal holiday, in which case the committee shall meet on the first Tuesday evening following. The chair and vice-chair of the committee shall be selected by the council as established by council rules.

(Code 1975, § 2.4; Ord. No. 7677-101, 5-16-77; Ord. No. 8182-1, 7-6-81; Ord. No. 9697-136, § 2, 5-5-97)

Sec. 2-29. - Reserved.

**Editor's note**— Ord. No. 9697-136, adopted May 5, 1997, repealed § 2-29, pertaining to duties of the standing committees, as derived from the Code of 1975, § 2.5.

Sec. 2-30. - Voting procedures.

- (a) To enact any ordinance for whatever purpose, or any resolution or motion (1) to create any liability against the city, or (2) for the expenditure or appropriation of its money (unless any extraordinary majority is required under state statutes or city ordinances), a majority of the alderpersons then holding office must vote "yes" or "aye."
- (b) The passage of any resolution or motion not within the above description shall require the "yes" or "aye" vote of a majority of the alderpersons present and voting when a vote on the measure is taken and the mayor when the mayor is authorized to vote because of a tie.
- (c)
  - (1) Abstentions, if for reason of a stated conflict of interest, shall be recorded by the city clerk as "abstained" and shall not be recorded as either an "aye" or a "nay" vote, and shall not be ruled by the chair as "going with the majority."
  - (2) If an abstention or 'pass' vote is not based upon an asserted conflict of interest, then such vote shall be recorded by the city clerk as "abstained" but the mayor shall rule that such vote "goes with the majority" of those votes actually cast as an "aye" or "nay" vote.

- (3) Each council member shall have the right to abstain by reason of a stated conflict of interest based upon his or her own assessment of the existence of such conflict of interest and the city council shall have no right to overrule such council member's determination.
- (d) When state statutes or city ordinances, in order to enact an ordinance, resolution, motion, or upon reconsideration after veto and return thereof by the mayor, require an extraordinary majority to vote "aye", the following procedures shall be applicable in calculating the extraordinary majority:
  - (1) Abstentions, if stated by the alderperson to be for reason of conflict of interest, shall not be counted as either an "aye" or "nay" vote and members abstaining shall not be counted in determining the total to which the percentage of votes required is applied in determining number of votes for passage, any statute, ordinance or rule of parliamentary procedure to the contrary notwithstanding;
  - (2) However, no such ordinance, resolution or motion shall be deemed to have passed the city council unless such ordinance, resolution or motion receives an "aye" vote from at least a simple majority of the aldermen/alderwomen then holding office.

(Code 1975, § 2.6; Ord. No. 8687-82, 5-4-87; Ord. No. 2005-07-095, § 1, 7-18-05)

Sec. 2-31. - Electronic attendance at meetings.

- (a) A member of the city council may participate and vote electronically at public meetings, including council meetings and committees of the whole, if the member is unable to physically attend because of:
  - (1) Personal illness or disability;
  - (2) Employment purposes or business related to the City of Urbana; or
  - (3) Family or other major emergency.

In order for such participation to be valid, the member must provide notice sufficiently in advance of the meeting for the city to be able to provide the technical means necessary to fulfill such a request. The council may deny a member's electronic attendance request by a two-thirds ( 2/3 ) vote if the request does not meet one (1) of the above criteria. A member may vote on motions and issues coming before the body, but his or her vote shall not count towards a quorum.

- (b) For the purpose of this section, "electronic participation" means participation by telephone, video, or internet connection as provided by rules adopted by the council consistent with the provisions of Public Act 94-1058 amending the Illinois Open Meetings Act, ILCS 120/7. The electronic participation shall not be valid unless it provides means for the member to hear and participate in the discussion preceding any action of the council.
- (c) For the purposes of this section, the mayor shall be treated as a member of the council and accorded the same rights of electronic participation.

(Ord. No. 2006-12-148, § 2, 12-20-06)

## **Public Input (Urbana City Code Section 2-4)**

**Ordinance No. 2011-05-033, adopted May 16, 2011 and updated by Ordinance 2019-08-051**

### **Sec. 2-4. - Public meetings.**

- (a) Any person who seeks to address the members of a commission, committee, or other official body of the city at any public meeting will be permitted to speak on any matter listed on the agenda or on any other matter of public concern, subject to the following provisions:
  - (1) The presiding officer shall designate a time during the meeting at which the public may address the members. The presiding officer may require persons wishing to speak during any portion of a meeting to sign in before the start of the meeting and to provide their names, addresses, and topics to be discussed.
  - (2) Prior to speaking, each person must be recognized by the presiding officer and must state his or her name for the record.
  - (3) Subject to subsection (a)(4), public comment is limited to no more than five (5) minutes per person and to no more than two (2) hours per meeting, unless extended by consent of a majority vote of the members present. The presiding officer or his or her designee shall monitor each speaker's use of time and shall notify the speaker when the time allotted has expired.
  - (4) If the presiding officer recognizes that more than twenty (20) persons desire to speak, he or she may limit each speaker to comments of no more than three (3) minutes. Whenever any group of persons wishes to address the members on the same subject matter, the presiding officer may ask that a spokesperson be chosen from the group. If additional matters are to be presented by other persons in the group, the presiding officer may limit the number of such persons and may limit the presentation to information not already presented by the group spokesperson.
  - (5) Persons invited by the presiding officer to address the members are subject to such time limitations as the majority of the members present may prescribe.
  - (6) Separate rules, as required by law or as otherwise provided in this Code, will govern the conduct of quasi-judicial hearings.
- (b) The city clerk shall post the provisions of subsection (a) on the city's website.

(Code 1975, § 1.17; Ord. No. 7980-113, § 6(A), 6-16-80; Ord. No. 2011-05-033, § 1, 5-16-11)

## City of Urbana Officials and Employee Ethics Ordinance

(Ord. No. 2004-05-053, § 2, 9-15-04)

### Sec. 2-201. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section:

*Campaign for elective office* means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities:

- (1) Relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act),
- (2) Relating to collective bargaining, or
- (3) That are otherwise in furtherance of the person's official duties.

*Candidate* means a person who has filed nominating papers or petitions for nomination or election to any elected federal, State or local public office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

*Citizen appointee* means a person appointed by the mayor and confirmed by the council to a position in or with any of the City of Urbana's boards, commissions, panels, or other bodies, including any such board, commission, panel, or other body with respect to which the city is a participant via an intergovernmental agreement, regardless of whether the position is compensated.

*City or City of Urbana* means the City of Urbana, Illinois, and also includes the Urbana Free Library.

*Collective bargaining* has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (5 ILCS 315/3).

*Compensated time* for purposes of this article, means any time worked by or credited to an employee that counts toward any minimum work time requirement imposed as a condition of employment with the city. However, "compensated time" for purposes of this article does not include any designated holidays, vacation, or any period when the employee is on an unpaid leave of absence, but does include any time on paid administrative leave.

*Compensatory time off* means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with the city.

*Contribution* has the same meaning as that term is defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4).

*Elected official* means the mayor, elected or appointed members of the city council, the city clerk, and any other person holding elected office with or for the city.

*Employee* means any person employed by the city, whether full-time, part-time, seasonally, pursuant to a contract, or otherwise, and whose employment duties are subject to the direction and

control of the city with regard to the material details of how the work is to be performed, but does not include an independent contractor.

*Gift* means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

*Leave of absence* means any period during which a city employee does not receive:

- (1) Compensation for employment,
- (2) Service credit towards pension benefits, and
- (3) Health insurance benefits paid for by the employer.

*Political activity* means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities:

- (1) Relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act),
- (2) Relating to collective bargaining, or
- (3) That are otherwise in furtherance of the person's official duties.

*Political organization* means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the state board of elections or a county clerk under Section 9-3 of the Election Code (10 ILCS 5/9-3), but only with regard to those activities that require filing with the state board of elections or a county clerk.

*Prohibited political activity* means:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

- (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires.
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.
- (15) Participating in any recount or challenge to the outcome of any election.

*Prohibited source* means any person or entity who:

- (1) Is seeking official action:
  - a. By an elected official or citizen appointee; or
  - b. By an employee, or by the elected official or another employee directing that employee.
- (2) Does business or seeks to do business:
  - a. With the elected official or citizen appointee; or
  - b. With an employee, or with the elected official or citizen Appointee or another employee directing that employee.
- (3) Conducts activities regulated:
  - a. By the elected official or citizen appointee; or
  - b. By an employee, or by the elected official or another employee directing that employee; or
- (4) Has interests that may be substantially affected by the performance or non-performance of the official duties of the elected official or employee.

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-202. - Applicability.

This article applies only to conduct that occurs on or after the effective date of this article and to causes of action that accrue on or after the effective date of this article.

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-203. - Prohibited political activities.

- (a) No employee shall intentionally perform any prohibited political activity during any compensated time.
- (b) No elected official, employee, citizen appointee shall intentionally misappropriate any City property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.
- (c) At no time shall any elected official, employee, or citizen appointee intentionally require any other employee or citizen appointee to perform any prohibited political activity:
  - (1) As part of that employee's or appointee's duties,
  - (2) As a condition of city employment or appointment, or
  - (3) During any time off that is compensated by the city (such as vacation, personal days, paid administrative leave, or compensatory time off).
- (d) At no time shall any elected official, employee or citizen appointee intentionally require any other employee or citizen appointee to participate in any prohibited political activity in consideration for that employee or citizen appointee being awarded any additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or appointment, or otherwise.
- (e) No elected official, employee or citizen appointee shall be awarded any additional compensation or employee benefit, in the form of a salary adjustment, bonus, compensatory time off, continued employment, or otherwise, in consideration for the employee's or citizen appointee's participation in any prohibited political activity.
- (f) Nothing in this section prohibits activities that are otherwise appropriate for an elected official, employee or citizen appointee to engage in as a part of his or her official duties or activities, that are undertaken by an elected official, employee, or citizen appointee on a voluntary basis as permitted by law.
- (g) No person either:
  - (1) In a position that is subject to recognized merit principles of public employment, or
  - (2) In a position the salary for which is paid in whole or in part by federal funds and that is subject to the federal standards for a merit system of personnel administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-204. - Gift ban.

- (a) Except as permitted by this article, no elected official, citizen appointee, or employee, and no spouse of or immediate family member living with any elected official, citizen appointee, or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance.
- (b) No prohibited source shall intentionally offer or make a gift that violates this section.

Sec. 2-205. - Gift ban exceptions.

Section 2-204 is not applicable to the following:

- (1) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (2) Anything for which the recipient pays the fair market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Educational materials and missions.
- (5) Travel expenses for a meeting to discuss business.
- (6) A gift to a recipient from a relative, meaning those people related to the recipient as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, domestic partner, roommate or housemate, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the recipient's spouse, domestic partner, and the recipient's fiancée or fiancé.
- (7) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
- (8) Food or refreshments not exceeding seventy-five dollars (\$75.00) per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.
- (9) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an elected official, employee or citizen appointee), if the benefits have not been offered or enhanced because of the official position or employment of the elected official, employee, or citizen appointee and are customarily provided to others in similar circumstances.

- (10) Intra-governmental and inter-governmental gifts. For the purpose of this article, "intra-governmental gift" means any gift given to an elected official, employee, or citizen appointee from another elected official, employee, or citizen appointee, and "inter-governmental gift" means any gift given to an elected official, employee, or citizen appointee by an elected official, employee, or citizen appointee of another governmental entity.
- (11) Bequests, inheritances, and other transfers at death.
- (12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than one hundred dollars (\$100.00). Each of the exceptions listed in this section is mutually exclusive and independent of every other.

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-206. - Disposition of gifts.

An elected official, employee, or citizen appointee, his or her spouse or an immediate family member living with the officer or employee, does not violate the gift ban if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-207. - Conflicts of interest prohibited.

- (a) No elected official or citizen appointee may participate in, vote upon, or otherwise act on any matter in which that person is directly or indirectly financially interested. For purposes of this sub-paragraph, a person shall be deemed to be financially interested in any contract, grant, appropriation, or legislative enactment that is made with, to, or for the benefit of that person, to any firm, partnership, association, corporation, or cooperative association as to which the person is a board member, director, or officer. No conflict shall be deemed to exist under this subparagraph as to any legislative enactments that affect the elected official or citizen appointee only to the extent that members of the general public are affected.
- (b) No elected official or citizen appointee may participate in, vote upon, or otherwise act on any matter in which that person has a conflict of interest as defined by any Illinois or federal law or regulation

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-208. - Ethics advisor.

- (a) The city's chief administrative officer shall designate an ethics advisor for the city.
- (b) The ethics advisor shall provide guidance to the elected official, citizen appointees, and employees of the city concerning the interpretation of and compliance with the provisions of this article and state ethics laws.

(Ord. No. 2004-05-053, § 2, 9-15-04)

Sec. 2-209. - Penalties.

- (a) A person who intentionally violates any provision of this article may be fined in an amount not to exceed seven hundred fifty dollars (\$750.00).
- (b) Any person who knowingly makes a false report alleging a violation of any provision of this article to the local enforcement authorities, the state's attorney or any other law enforcement official may be fined in an amount not to exceed seven hundred fifty dollars (\$750.00).
- (c) In addition to any other penalty that may be applicable, whether criminal or civil, an employee who intentionally violates any provision of this article is subject to discipline or discharge.

(Ord. No. 2004-05-053, § 2, 9-15-04)



## APPENDIX 3

### City Clerk Deadlines and Schedule for preparing Council Packets (12/2019)

#### Wednesday before Committee of the Whole (COW) Meetings:

- 10am – Titles for upcoming meeting to City Clerk’s office
- 3pm – Agenda draft circulated to CA/Mayor/Chair
- 5pm – Save documents for upcoming meeting in “PACKETS” folder on G drive
  - Materials for meetings are saved in a dated file folder (G:\PACKETS). For each agenda topic, save memos, Ordinances, Resolutions, attachments, and other documents as a single continuous PDF file **in the order you want the materials presented, memo first. This is for your ease of printing and our uploading to the web.** You may combine agenda items if part of a single memo.
  - In addition, there will be a file folder in the meeting packet location for individual Ordinances, Resolutions, and other documents that will need to be processed and signed. These must be saved as Word documents with proper formatting per provided City Clerk or Legal Department templates. The Clerk’s office will add appropriate numbers and leave the documents in the G drive folder until the council meeting where action occurs. Subsequent changes should be made on these G Drive documents, as modified by the Clerk’s Office, with an appropriate revision indication in the name of the file by anyone making changes after the 5pm Wednesday deadline. **Ordinances or Resolutions that are revisions to existing City Code or similar should include strikethrough documents showing proposed changes. Final, clean versions of all ordinances and resolutions will be needed for Council meetings as with and per schedule of New Business items below.**

#### Thursday before COW Meetings:

- 9am – Final agenda approved and prepared
- 10am – Deadline for all materials to be submitted to the Clerk’s Office (drafts acceptable if that is what is to be presented to Committee)
- Bring printed copies of your respective packet to the Clerk’s Office:
  - 1 double sided (for the public book which we also file afterwards), **not stapled**
  - 11 double sided (Mayor, City Administrator, Legal, 6 Council Members, Clerk, Recording Secretary), **stapled or clipped as appropriate\***
  - *It is the submitting department’s responsibility to fix any errors discovered in packet materials.*

*A direct link to the agenda and packet will be emailed by the Clerk’s office to Council Members, media, department heads and managers, as well as any other requestors on Thursday afternoons. Occasionally, this will occur Fridays to accommodate special activities or actions.*

### Wednesday before City Council Meetings:

- 10am – New Business titles for upcoming meeting to City Clerk’s office
- 3pm – Agenda draft circulated to CA/Mayor/Chair
- 5pm – Save documents for upcoming meeting in “PACKETS” folder on G drive as described above
  - Previously provided material from COW gets carried over and does not need to be repeated (unless changed)
  - Add new or corrected material and memos for COW items as needed per above instructions
  - New Business items follow the same procedures as COW except that strikethrough versions **need to be accompanied by final, clean (no strikethroughs, comments, highlighting, etc.)**, signature ready versions of ordinances and resolutions. These and other documents to be signed are also to be saved in the “PACKETS” folder where appropriate for our final actions. In cases where this will not be possible, please see the procedure for “Day after City Council Meetings”.

### Thursday before City Council Meetings:

- 9am – Final agenda prepared
- 10am – Deadline for all materials to be submitted to the Clerk’s Office
  - Ordinances and Resolutions will be left on the G drive. Signature versions will be modified by clerk staff for our additional procedures after this hard cutoff and will only need replacement if changes are made at council. If you need to make any last minute changes to these documents, they should be done to and reflected to the signature versions and so noted.

*A direct link to the agenda and packet will be emailed as above*

### Day after City Council Meeting

- 10am – Submit final versions of ordinances and resolutions **if** any corrections or revisions were made at Council. For those passed with no changes, nothing else needs to be done assuming **final, clean versions** were previously supplied. The signature versions should have been saved as Word documents in the “PACKETS” folder on the G Drive and should be modified in place as described above. For ordinances or resolutions requiring complicated changes, please communicate with the Clerk’s office.

### **Additional Information**

Please note that agenda items are added in the order they are received by us or the Mayor’s office (though may be modified as deemed necessary by the Chair/Mayor/City Administrator). If items are not received by the deadline, they will not be on the agenda.

Our goal is to have documents requiring signatures ready on the day after Council meetings and all documents signed and sealed by 4pm the following day. This allows us to complete all processing by Friday, including mailings, recordings, and uploading to the city website. If there are items that need immediate attention, please let us know and we will try to have those ready for the mayor's signature at cabinet staff meeting Tuesday. Emergency items can be accommodated immediately following a council meeting.

### Template/Font

We have switched to using Garamond 12 pt. for agendas, Ordinances, and Resolutions. Please use this on memos etc. for consistency. Ordinance and Resolution templates are located at: G:\City Clerk\Ordinance & Resolution Templates

We have a suggested Agenda and Meeting Announcement template to standardize across the city's various Boards and Commissions.

### Joint Email Address

For email that should be seen by all in the "Clerk's office" please send to Charlie, Kay, and Wendy or use !City Clerk ([cityclerk@urbanaininois.us](mailto:cityclerk@urbanaininois.us))

### Town Board

Town Board meetings take place the first Monday of the month and the packets follow the same process as City Council meetings. Since this material hasn't come from committee, it is all new and needs to be packaged for distribution and copies made (1 single sided for the permanent file, 9 copies for chair, CA, and Trustees, and Town Clerk – assuming Township staff have their own copies). The same deadlines as for City Council apply.

### \*Bulky Documents

Beginning January 2020, we will be trying to cut down on the printing of bulky technical material that, if needed, can be referred to by the online material. An example to use for guidance is a recent AT&T micro cell tower agreement that had many pages of engineering specs. Attachment A-C could probably have been represented by a URL saving about 80 sheets of paper per copy ([https://www.urbanaininois.us/sites/default/files/attachments/Resolution\\_2019-11-044R\\_0.pdf](https://www.urbanaininois.us/sites/default/files/attachments/Resolution_2019-11-044R_0.pdf)).

Council has asked that we use careful judgement, not leave out critical details (like the agreement itself), and prominently note that additional materials are part of the electronic packet. This is a work in progress but if you think you have an item that qualifies, please work with us in the clerk's office to discuss and upload the material in advance so that you have URL to include in subsequent memos and documents. We will still need one complete printed copy to meet state retention record requirements.



## **APPENDIX 4**

### **History of Council Rules Jack Waaler Introductory Notes (more history)**

#### **Resolution No. 9394-R13 (Sanitary Sewer Connection)**

#### **Suggestions on Handling Abusive Speech from Audience**

### **History of Council Rules**

The origin of current Council Rules is Appendix 1 of the 2005 Urbana City Council Procedures document prepared by former City Attorney Jack Waaler. Jack indicated in the 2005 document that the rules listed in Appendix 1 were not existing rules but were merely proposed rules Jack suggested the City Council adopt. His memo is included in Appendix 2 and provides a background to procedures and the council rules he proposed. The council subsequently made a few minor changes and adopted them by voice vote June 20, 2005. Some of the rules refer back to actual earlier resolutions. For example, Rule 1, Resolution No. 9495-R29, contained the only official rules for placing items on a City Council or Committee of the Whole meeting agenda. The Urbana City council has been following these rules as Jack proposed since their adoption in 2005.

Since 2005 adoption, Rule #4 was superseded by ordinance in Sec. 2.4. The newly elected Council of May 2017 revised these council rules by Resolution and replaced Rule #4 with a revision of an earlier Resolution on Resolutions. Several other changes and enhancements were made to the 2005 rules and may be noted by a comparison to the 2005 Edition of Appendix 1 (shown below). The new rules (which follow the historical document) specifically replace Resolution No's 9495-R29 and R9394-R30. In December 2019, City Council removed Rule 4, the Resolution on Resolutions and cleaned up some miscellaneous language as well as clarified that the rules would apply to any committee of the City Council.

These rules are in addition to those set by other Resolutions (Appendix 2) or by Ordinance (Appendix 3) such as time limits, mandatory adjournment, the deferral rule, the order of the agenda, Mayor Pro Tem, or adoption of council rules (Sec. 2-27 – 2.31. - Rules for deliberations), and Public meetings (Sec. 2-4). It should be noted that the deferral rule and the election of Mayor Pro Tem differ from state statute per the city's Home Rule abilities. There are numerous other examples of Home Rule authority in city ordinances.

Council Rules may be adopted, deleted, or modified over time by Resolution (and even voice vote) while others may be adopted by Ordinance. Only those adopted by Ordinance are included in the City Code. It is suggested that these rules with whatever modifications are made by council, be passed by a new Resolution replacing any referenced resolutions changed by these modifications.

## Appendix 1 as adopted by City Council, June 2005

### APPENDIX 1

Rule #1. Agenda Preparation. Items shall be placed on the printed Agenda as follows:

(a) Council Meetings. If two (2) Alderpersons make a request of the Mayor to place an item on the Agenda, or if such item has been duly forwarded by one of the Council's standing Committees, such item shall be placed on the printed Agenda for the next Council meeting.

(b) Committee Meetings.

(1) If an Agenda item has previously been listed on the Agenda and discussed at a meeting of a Council Committee which occurred in the ninety (90) days immediately preceding the next scheduled meeting of one of the Council's Committees, such item can be placed on the printed Agenda only at the request of two (2) Alderpersons; and

(2) If an Agenda item does not fall within the description set forth in (1) above, such item may be placed on the Agenda of a Committee meeting by the Chair sua sponte, or at the request of any Alderperson.

Rule #2. No Committee of the City Council shall meet on the day of a regular City Council meeting prior to the meeting of the City Council. However, a special Council meeting may meet on the same day prior to a Committee meeting.

Rule #3. Debate limits. At all Council meetings and Committee meetings, each Council member (including the Mayor) shall be limited to speaking five (5) minutes each time such member is recognized to speak, except during petitions and communications when any Council member would be allowed ten (10) minutes, and each council member shall be limited to speaking in debate only twice on any motion placed before the body (if such motion is debatable).

Rule #4. The Mayor or Chair shall retain the right to allow public input on issues at hand at times other than during "Petitions and Communications". Such input must be relevant to the issue at hand. The Council retains the right to determine whether a resolution brought before it is relevant to the City's business.

Rule #5. All proposed ordinances and resolutions or proposed changes in existing ordinances or resolutions shall be submitted to the City Clerk so that proper review may be made by the appropriate city staff.

Rule #6. All appointments to City commissions, and all appointments of non-Civil Service City Officers shall be submitted, in writing, and with vita, to the Council with the regular mailing of the Council Agenda and other materials prior to the City Council meeting at which said appointments are to be acted upon.

Rule #7. Committee of the Whole:

(a) The Chair shall rotate among the Alderpersons of each Ward in numerical order of such Wards (with Ward 1 following Ward 7). The Vice-Chair

shall be the Alderperson of the Ward that bears the next highest number, except Ward 1 shall follow Ward 7.

(b) The Chair shall be in office from adjournment of the Council meeting which precedes the Committee meeting, to the adjournment of the subsequent Council meeting. the time the prior committee meeting adjourns until the adjournment of the committee which he/she chairs. The Vice-Chair shall be in office only during a meeting where the scheduled Chair did not attend or as delegated by the Chair.

(c) The committee of the whole shall not be bound or limited by Robert's Rules of order with respect to propriety of motions that can be made. Any parliamentary motion that would be in order at a regular City Council meeting shall be in order in a meeting of the committee of the whole.

Rule #8. Failure to Observe Procedures.

The provisions of this Resolution are adopted to expedite the transaction of the business of the Council in an orderly fashion and are deemed to be procedural only. The failure to strictly observe such rules by the Council shall not affect the jurisdiction of the council or invalidate any action taken at a meeting that is otherwise held in conformity with law.

7. **ORDINANCE NO. 2005-06-083: AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN URBANA HOME CONSORTIUM SUBRECIPIENT AGREEMENT (ECOLOGICAL CONSTRUCTION LABORATORY AFFORDABLE HOMEOWNERSHIP PROGRAM 2004-2005; PASSIVE SOLAR HOUSE OWNERSHIP PROGRAM)**

Ms Bullok presented the staff report.

Ms Barnes moved to send this item to Council with a recommendation for approval. Mr. Bowersox seconded. The motion carried with a voice vote.

8. **DISCUSSION OF COUNCIL RULES**

Mr. Bowersox began discussion. A handout was distributed to Committee Members earlier.

Following debate, Ms Chynoweth moved to send Appendix I (Rule 7b) to Council with a recommendation for approval. Mr. Bowersox seconded. The motion carried by a voice vote.

Jack Waaler (Special Counsel) addressed Appendix III language changes. Ms Barnes made a motion to direct staff to come back to Committee with language changes to Sections 2-24, 2-25, and 2-30. Mr. Bowersox seconded. The motion carried by a voice vote.

Regarding the issue of meeting starting time (i.e., City Council, Committee, Township, public hearings, etc.), Mr. Lewis made a motion requesting that staff draft language changing the time meetings are held to 7:00 p.m. for all business of the council, and bring back to Committee for review. Ms Barnes seconded. The motion carried by a voice vote.

9. **RESOLUTION NO. 2005-06-010: A RESOLUTION ASCERTAINING PREVAILING WAGES (2005-2006)**

Bruce Walden (Chief Administrative Officer) presented the staff report.

Mr. Lewis made a motion to send this item to Council with a recommendation for approval. Ms Chynoweth seconded. The motion carried by a voice vote.

10. **ORDINANCE NO. 2005-06-084: AN ORDINANCE AMENDING SECTIONS 1-18 AND 15-63 OF THE CODE OF ORDINANCES (PAY-BY-MAIL SCHEDULE AND CURFEW ORDINANCE)**

Mr. Waaler presented the staff report.

Following debate, Ms Chynoweth moved to send this item to Council without a recommendation. Mr. Bowersox seconded. The motion carried by a voice vote.

Alderman Bowersox commented that legal staff had provided a newer version of this ordinance and made a motion to approve this version, amending Sections 1-18 and 15-63 of the Code of Ordinances Pay-By-Mail Schedule and Curfew Ordinance. Alderman Lewis seconded. The vote was as follows:

Barnes - Aye	Lewis - Aye
Bowersox - Aye	Smyth - Aye
Chynoweth - Aye	Stevenson - Aye

**Disposition:** Ordinance No. 2005-06-084, "An Ordinance Amending Sections 1-18 and 15-63 of the Code of Ordinances (Pay-By-Mail Schedule and Curfew Ordinance)", was approved by Council by a roll call vote (6-aye:0-nay).

f. **Ordinance No. 2005-06-081: *An Ordinance Authorizing the Purchase of Certain Real Estate (1110 West Hill Street)***

Alderman Smyth made a motion to approve. Alderman Bowersox seconded. The vote was as follows:

Barnes - Aye	Lewis - Aye
Bowersox - Aye	Smyth - Aye
Chynoweth - Aye	Stevenson - Aye

**Disposition:** Ordinance No. 2005-06-081, "An Ordinance Authorizing the Purchase of Certain Real Estate (1110 West Hill Street)", was approved by Council by a roll call vote (6-aye:0-nay).

g. **Ordinance No. 2005-06-082: *An Ordinance Authorizing the Purchase of Certain Real Estate (708 North Goodwin Avenue)***

Alderman Smyth made a motion to approve. Alderman Lewis seconded. The vote was as follows:

Barnes - Aye	Lewis - Aye
Bowersox - Aye	Smyth - Aye
Chynoweth - Aye	Stevenson - Aye

**Disposition:** Ordinance No. 2005-06-082, "An Ordinance Authorizing the Purchase of Certain Real Estate (708 North Goodwin Avenue)", was approved by Council by a roll call vote (6-aye:0-nay).

h. ***A Motion to Adopt Council Rules***

Alderman Smyth noted that this is a motion to adopt Council Rules as amended at last week's Committee meeting, which involved changes to Rules #2, #4, and #4b. Alderman Smyth made a motion to adopt the Council Rules as amended. Alderman Bowersox seconded. The motion carried by a voice vote.

## DISCUSSION OF COUNCIL PROCEDURES

### Mayor Pro Tem

As a preliminary matter, note that Urbana, utilizing its Home Rule powers, provides for electing a permanent Mayor Pro Tem (Urbana Code 2-26), rather than following the statute which provides for the Council to elect a Mayor Pro Tem each time the Mayor is absent. (5/3.1-35-35)

1. What rules govern our proceedings? We have five tiers of procedural rules, not even counting the constitutional precepts that we must honor. First, we have the Illinois Statutes. The Statutes give us such matters as the definition of a quorum and how a Mayoral veto can be overridden. The Statutes also provide for deferrals, but Urbana changed the deferral statute under our Home Rule powers. The second tier is our own ordinances. Here we have such ordinances as the requirement that there be a public hearing 45 days prior to the vacating of any street; here too is our own abstention ordinance and, of course, our own deferral ordinance. The third tier is our resolutions. For example, the Resolution on Resolutions and the Resolution governing debate limits. The fourth tier is our standing rules, for example, that there can be no Committee meeting the same day and prior to a regular Council meeting. Lastly, if the matter is not governed by any of the first four tiers, it is governed by Robert's Rules of Order.

### 2. Deferrals.

The state statute rule about deferrals is far more limited than the one we follow. The state statute is found in 65 ILCS 5/3.1-40-35 and reads as follows:

“Upon the request of any two aldermen present, any report of a committee of the council shall be deferred for final action to the next regular meeting of the council after the report is made.”

Using its Home Rule powers, the City Council has enacted an ordinance which in effect cancels the state statute and replaces it with the following:

“Section 2-27. Rules for Deliberation. (4) At any meeting of the City Council, upon the making of and second to a motion to postpone consideration of any agenda item to the next regular meeting of the council, which such agenda item is then before the city council for the first time by motion made and seconded, any such agenda item shall be automatically deferred for final action thereon to the next regular meeting of the city council, unless upon the making of and second to a subsequent motion, three-fourths of those aldermen/alderwomen present vote to consider such deferred item at a special meeting to be called and held before the date of the next regular meeting.”

Comment. Our deferral ordinance is designed to be used only one time with respect to a particular ordinance or resolution. Once used, it cannot again be used as to such item. The intended use is to allow two members of the Council to delay consideration of an item for two

weeks because they just do not feel informed enough to vote. The same manner can then be further delayed by other motions, but to do so requires a majority to agree to delay further consideration of the matter.

Put simply, our deferral rule (actually an ordinance) allows an agenda item to be automatically put over to the next regular Council meeting by a motion to defer and a second. It can be applied only if the agenda item is before the Council for the first time. Thus note, a motion to defer applies only to agenda items, not to subsidiary motions. Sometimes when an agenda item is radically changed by amendments, it becomes a judgment call if, as radically changed, it is an agenda item before the Council for the first time.

There are several important things to notice about the operation of the special Urbana rule. One is that it applies to any meeting of the City Council as a City Council, but not to committee meetings. Secondly, it clarifies that a motion to defer is in order only when an agenda item is before the City Council for the first time on a motion that was seconded. Then, if one member moves to defer, and another seconds it, the item is deferred for final action until the next REGULAR council meeting. Note, it defers automatically to the next REGULAR council meeting, but there is an escape wherein 3/4<sup>th</sup>s of the aldermen present can vote to consider such deferred item at a special meeting to be called before the date of the next regular meeting.

The deferral rule should be contrasted with the three standard parliamentary procedure motions that are in order to delay consideration of the matter:

- a) Lay on the table—this motion really should be used only to put a matter aside temporarily to consider something more important. It is not debatable.
- b) A motion to postpone to a time certain, which is debatable.
- c) A motion to postpone indefinitely, which is really a soft way of killing the motion. This is debatable.

Once in a while, I hear a motion to defer to a meeting to a month away. This motion is some sort of hybrid of the motion to defer and motion to postpone to a time certain. The word “defer” should not be used except when invoking the deferral rule. The standard Robert’s Rules language should be used to “postpone definitely” or “indefinitely” or “lay on the table”. (See suggested amendment at Appendix 3.)

3. Votes Required. State Statute when the votes required to pass a particular ordinance or resolution. (65 ILCS 5/3.1-40-40)

Basically, it provides that with our Council of 7, approval of any ordinance requires the “yes” vote of 4 alderpersons. The same is true of any resolution or motion which creates liability to the city, or provides for the expenditure or appropriation of its money. There are certain instances where the statutes require an extraordinary vote. Here one must be careful to distinguish between when the statute requires an extraordinary vote of all the aldermen then holding office,

or the corporate authorities. The 'corporate authorities' is defined by the statutes as all the aldermen, plus the mayor.

#### 4. Omnibus Votes.

The statute also provides for an omnibus vote or by one vote to be taken for approval of several ordinances or resolutions included in the omnibus vote. An omnibus vote can only be taken if all members consent.

#### 5. Abstentions.

One must be mindful of the special City of Urbana ordinance regarding votes required, set forth in Section 2-30 of the Urbana City Code. Four alderpersons is the minimum. Of particular importance in that section is how we treat abstentions. Unless a member announces that they are abstaining for conflict of interest, then an abstention is ruled by the chair to have gone with the majority. If one chooses to abstain on the basis of a conflict of interests, all that member need do is say those words, and no one has a right to inquire as to the basis of the conflict of interest. In essence, the City of Urbana leaves it up to each alderperson's conscience whether or not they feel they have a conflict of interest. This is sometimes very important when trying to determine whether or not a measure is passed, particularly if there is an extraordinary majority required.

#### 6. Additions to the Agenda.

Although the printed agenda (and Code Section 2-27) allows for additions to the agenda, after a court case in 2002, it is now illegal to add anything to the agenda for action unless it is first placed on the agenda in full compliance with the Open Meetings Act (48 hours in advance). So, as a practical matter, "additions to the agenda" for action on an item is a nullity.

#### 7. Council Rules.

Section 5/3.1-40-25 of the statutes provides for the Council to make its own rules. The Urbana City Council has done that and changed them many times over the years, and as a result, we have a set of scattered and sometimes overlapping and ambiguous rules of Council, which are mixed in with miscellaneous resolutions of the Council to the same effect. All should be blended together in a revised codification. I have gone over the last collection of the various rules and resolutions that we have enacted over the years, and from them I have gleaned the following that actually seem important enough to include in a new codification effort.

Attached then as Appendix 1 are the rules that I would suggest that we adopt with a fresh resolution. Kindly note that the rule labeled as Rule 9 is actually an additional rule that I have borrowed from City of Champaign rules.

Attached as Appendix 2 are 4 Resolutions that govern Council procedures.

RESOLUTION NO. 2004-09-019R

A RESOLUTION REVISING A RESOLUTION ESTABLISHING PROCEDURES FOR APPROVAL OF ANNEXATION AGREEMENTS FOR THE PURPOSES OF SANITARY SEWER CONNECTION

WHEREAS, the City of Urbana and the Urbana-Champaign Sanitary District (UCSD) entered into an intergovernmental agreement (UCSD Agreement) which provides that UCSD will not permit persons to connect to its sanitary sewer system unless the property to be served is within the City, within a subdivision approved by the City, or is in an area that is the subject of an annexation or development agreement with the city; and

WHEREAS, UCSD and the City desire to implement the UCSD Agreement without causing unnecessary delay for persons who are willing and able to enter into annexation agreements; and

WHEREAS, the City finds that if a person delivers to the City an irrevocable offer to enter into an annexation or development agreement in the form of an annexation agreement or annexation petition, that UCSD should then be authorized to provide sanitary sewer service to the property under the UCSD Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. An annexation agreement or annexation petition may be presented to the City Council or to a Standing Committee of the Whole City Council for review and approval (or in the case of an annexation agreement, tentative approval) for the purpose of allowing a UCSD sanitary sewer service connection.

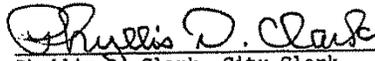
Section 2. If the said annexation agreement or annexation petition is acceptable to the City Council or Standing committee of the Whole City Council, they shall, by motion, direct City staff to inform the UCSD that the City of Urbana has received an annexation agreement or annexation petition in

a form acceptable to the City and that said agreement or petition is considered sufficient to authorize UCSD to provide sanitary sewer service to the property.

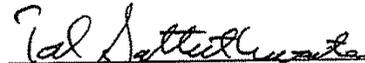
Section 3. In situations where an existing septic sewer serving the subject property fails, and the Chief Administrative Officer determines that a public health hazard may be created, the Chief Administrative Officer may authorize the City Staff to inform the Urbana-Champaign Sanitary District that the City has received an annexation agreement acceptable to the City, or a legally sufficient petition for annexation. Then the annexation agreement or petition shall be promptly presented to the City Council for their consideration in the normal course of processing rather than following the special procedure set forth in Sections 1 and 2 above.

Section 4. Nothing in this process shall be construed to preempt the requirements of the Illinois State Statutes governing the approval of annexation agreements, nor shall approval of sanitary sewer connections as provided for herein, prevent the City Council from amending, modifying, supplementing or denying approval of the tendered annexation agreement in the final approval process.

PASSED by the City Council this 20th day of September, 2004.

  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this 22<sup>nd</sup> day of September,  
2004.

  
Tod Satterthwaite, Mayor

## SUGGESTION ON HANDLING ABUSIVE SPEECH FROM AUDIENCE

Jack Waaler, 2005

Because our meetings are really in two separate parts: (1) an invitation to the general public to speak on anything under Petitions and Communications, and (2) our actual legislative portion, we have to live by two entirely separate sets of rules for each portion.

In the Open Comment portion of the meeting, the Mayor can enforce our 5-minute limitation, but even here problems lurk -- we do not always uniformly enforce the 5-minutes limitation (nor am I advocating that we should). It could certainly be argued that the 5 minute limit is enforced only when the Mayor does not like what is being said. Also, sometimes the abusive language occurs prior to the time limit expiring.

These problems can be overcome, but the difficulty is, in this portion of our Council meetings, the Mayor's immunity is only a qualified immunity and if sued, the City would have to prove that the Mayor was operating in a fashion to limit speech strictly in a neutral time, place and manner and was not motivated by any desire to censor any particular comments. I don't like to have to prove we were within our rights in an evidentiary hearing in Court. I would prefer to be in a position where we could win on summary judgment. Thus, it seems to me to be far safer to merely advise the entire Council that anyone, including the Mayor, is free to get up and walk away if they do not like listening to any abuse during Petitions and Communications. If the Mayor chooses to walk out, he should merely instruct the Sergeant-at-Arms (Chief of Police) to take over the duty of watching the 5-minute limit in his absence. The Mayor retakes the Chair when he wants to. This "walk away" procedure would be the extreme, to be used as an alternative to forcibly shutting a speaker up. In other words, it would be legally safer to use such a "walk away" procedure than have someone forcibly silenced if they go over the 5-minutes limit.

I believe it is very likely that if such an abusive speaker is deprived of his "City Council" audience, he will quit. Problem solved.

If disruption occurs during that portion of the Council meeting when the Council is actually deliberating Ordinances or Resolutions, here the Mayor probably will have absolute immunity as a legislator. So, after the appropriate calming warnings, he can even have the room cleared or have the offending person(s) removed. If this occurs, I would suggest that the Mayor use the following script:

"Could we please have order and quiet so the Council may proceed with its business."

If that doesn't work, the Mayor should say:

"It is imperative that you sit down and be quiet or leave the room so that the City Council may proceed with its business."

If that doesn't work, then I would announce that the City Council is in recess for 10 minutes so that those who are disrupting the Council business can calm themselves and be more orderly.

Then after the recess, if it continues again, the following announcement could be made to clear the room or remove a disruptive person:

"This interference has reached the stage where it disrupts and obstructs and makes impossible the performance by the City Council of its legislative functions. [All persons in this room who are not members of the City Council, or employees of the City of Urbana, or employees of the

News Media are directed to leave immediately.] The City Council will be in recess for 15 minutes while the room is cleared of unauthorized individuals."

Generally, it would be better to not single out a trouble maker; just clear the room, but if it is obvious that only one or two persons are causing the disruption, the bracketed part of the warning should be modified to direct those persons to leave: [The gentleman in the red shirt and white tie (pointing) is directed to leave this room immediately.]

This should set up the police to arrest anyone who refuses to leave for Criminal Trespass to Land (Chapter 38, Section 21-3).

## APPENDIX 5

### VETO AND VETO OVERRIDE

Jack Waaler, 2005

Since a veto could be a contentious matter, it is best to clarify the correct procedure to override a veto, in advance. Two statutes come into play.

(65 ILCS 5/3.1-40-45) (from Ch. 24, par. 3.1-40-45)

Sec. 3.1-40-45. Ordinances; approval; veto. All resolutions and motions (i) that create any liability against a city, (ii) that provide for the expenditure or appropriation of its money, or (iii) to sell any city or school property, and all ordinances, passed by the city council shall be deposited with the city clerk. Except as provided in Articles 4 and 5 of this Code, if the mayor approves an ordinance or resolution, the mayor shall sign it. Those ordinances, resolutions, and motions which the mayor disapproves shall be returned to the city council, with the mayor's written objections, at the next regular meeting of the city council occurring not less than 5 days after their passage. The mayor may disapprove of any one or more sums appropriated in any ordinance, resolution, or motion making an appropriation, and, if so, the remainder shall be effective. However, the mayor may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the mayor fails to return any ordinance or any specified resolution or motion with his written objections within the designated time, it shall become effective despite the absence of the mayor's signature. (Source: P.A. 87-1119.)

and

(65 ILCS 5/3.1-40-50) (from Ch. 24, par. 3.1-40-50)

Sec. 3.1-40-50. Reconsideration; passing over veto. Every resolution and motion specified in Section 3.1-40-45, and every ordinance, that is returned to the city council by the mayor shall be reconsidered by the city council at the next regular meeting following the regular meeting at which the city council receives the mayor's written objection. If, after reconsideration, two-thirds of all the aldermen then holding office on the city council agree at that regular meeting to pass an ordinance, resolution, or motion, notwithstanding the mayor's refusal to approve it, then it shall be effective. The vote on the question of passage over the mayor's veto shall be by yeas and nays and shall be recorded in the journal. (Source: P.A. 91-489, eff. 1-1-00.)

Note that a veto and override involve three separate council meetings. First, the council meeting at which the council initially passed the ordinance that was vetoed. Second, the next regular meeting at which the mayor returns the ordinance unsigned with his/her written objection to the council with his/her veto message. It is this third meeting at which the council must consider whether or not to override the mayor's veto.

The use of the word "reconsider" in the statute produces unnecessary confusion. Where the problem really comes in is with the confusion between veto override "reconsideration" and a motion to reconsider under parliamentary procedure. A call to override the veto should not be equated with a parliamentary motion to reconsider; it is a statutory reconsideration in the sense that the council is considering again an ordinance that it had adopted previously, but this time, the

council is considering it in the context of a veto override. Indeed, a proper motion to override a veto would be, “I move to override the Mayor’s veto of ordinance \_\_\_\_\_”.

There is a separate statute related to actual reconsiderations as well:

(65 ILCS 5/3.1-40-55) (from Ch. 24, par. 3.1-40-55)

Sec. 3.1-40-55. Reconsideration; requisites. No vote of the city council shall be reconsidered or rescinded at a special meeting unless there are present at the special meeting at least as many aldermen as were present when the vote was taken. (Source: P.A. 87-1119.)

## APPENDIX 6 – Parliamentary Procedures

A caveat here is that public bodies can and are different so the use of Roberts Rules needs appropriate flexibility and is trumped by any standing rules (such as those listed above)

### MEETING PROCEDURES

Per OMA, agendas are publicly posted, listed on websites at least 48 hours prior to the meeting, and are emailed to Council Members, staff, and media. New business may be presented and discussed at a meeting but no final action can be taken on any item that has not been noticed on the agenda. There is an annual Schedule of Regular Meetings for City of Urbana Council, Boards, and Commission on the city website and posted on city public bulletin boards. Minutes must be approved and posted regularly.

### AGENDA CONTENT AND DELIVERY

Any organization that has a desire to run smoothly has an agenda. The agenda is essential to the structure of your meeting as it sets out the business of the day. Agendas also allow for long term planning.

Your agenda packet consists of the Agenda items and all related communications. Your packet will be prepared and emailed to you by the City Clerk's office or staff in advance of the meeting.

A complete calendar of meetings with links to agendas and video can be found on the city website in the meetings calendar (<https://www.urbanaininois.us/meetings/calendar>)

### PARLIAMENTARY PROCEDURE

Basic Principals - a set of rules used for conducting meetings effectively and it allows everyone the opportunity to be heard and to make decisions **without** confusion.

#### WHY IS IT IMPORTANT?

- It allows for flexibility in a meeting,
- It allows for the democratic rule,
- It allows for a fair hearing for everyone -- and,
- It protects your rights as a member to be heard.

#### 10 BASIC PRINCIPLES

1. The organization is paramount as opposed to the individual
2. All members are equal.
3. Quorum must be present to take legal action.
4. Only one main proposition can be on the floor at a time.

5. Only one member can have the floor at a time.
6. Full debate on all questions (unless parliamentary rules do not allow debate on a question).
7. The issues and not the person are always what are under discussion.
8. A question once decided cannot come back before the same assembly in the same session in the same form except by use of reconsideration.
9. A majority vote decides (unless a greater majority is required).
10. Silence gives consent (goes with the majority vote)
- 11. COUNCIL RULES SUPERSEDE ROBERT'S RULES! (see comment footnotes below)**

## DECORUM IN DEBATE

1. Remarks must be confined to the merits of the pending question.
2. Members' motives must not be attacked.
3. All remarks must be addressed through the chair.
4. Members may not speak directly to one another.\*
5. The use of members' or officers' names is to be avoided.
6. Reading from books, reports, etc. is allowed only with the permission of the assembly.\*\*
7. A member who is interrupted by the chair must be seated. (*Depending upon Council Rules.*)
8. The chair may not participate in debate without relinquishing the chair. (*Depending upon Council Rules.*)
9. The chair must relinquish the chair if she/he has a conflict of interest.
10. No member may comment adversely on any prior act of the assembly that is not then pending.
11. Be polite and take turns.

\* Local custom seems to provide otherwise. Council members frequently address each other to make suggestions and communicate other ideas. \*\* Council members frequently read letters and email messages received from the public without first seeking everyone's approval.

## DUTIES OF THE CHAIR

1. Open the meeting
2. Announce the items in proper sequence
3. Recognize members entitled to the floor
4. State and put to vote all questions and announce the result of the vote
5. Refuse to recognize dilatory motion
6. Enforce rules relating to debate
7. Expedite business
8. Decide all questions of order
9. Respond to inquiries
10. Authenticate documents
11. Close the meeting/adjourn

## THE CHAIR ALWAYS

1. Maintains order
2. Provides strong leadership
3. Remains impartial

4. Is tactful
5. Is fair
6. Keeps discussion germane to the pending question
7. Exercises good judgment

## THE CHAIR NEVER

1. Gets excited
2. Is unjust, even to troublesome members
3. Takes advantage of a member's lack of knowledge
4. Is more technical than necessary
5. Allows remarks or debate to wander off the subject

## RULES GOVERNING DEBATE

1. The maker of a motion is entitled to speak first, if she/he wishes to.
2. No one may speak more than twice to the same question on the same day.
3. No one is entitled to the floor a second time on the same motion on the same day while any other member desires the floor to make his first speech.
4. Having obtained the floor, a member may speak for five minutes.
5. Rights in regard to debate are not transferable.
6. If a speaker yields to another member for a question, the time consumed is charged to the speaker.
7. A speaker may not speak against the motion he has made, but may vote against it.
8. A two-thirds vote is required to close debate.
9. The chair, so far as possible, should let the floor alternate between the affirmative and negative positions.
10. The chair may not bring debate to a close without the consent of the assembly (2/3).

## HOW DO MEMBERS GET THEIR SAY?

They make motions.

## WHAT IS A MOTION?

The proposal of an issue that the group can take a stand on or take action on;

Members can present a motion – “I move ...”

Another member seconds the motion – “I second...”

The members can debate the motion by giving their opinions on the motion.

After discussion, members are to vote on the motion.

## MOTIONS

THERE ARE 4 GENERAL TYPES OF MOTIONS:

- a. main motions,
- b. subsidiary motions,
- c. privileged motions,
- d. incidental motions.

**MAIN MOTION** – introduces the subject/proposal for consideration.

**SUBSIDIARY MOTION** – is when changes can be made to the main motion by amendment.

**PRIVILEGED MOTION** – contains special or important matters that are not related to pending business, i.e. “madam/mister chair, I move we adjourn.”

**INCIDENTAL MOTION** – are questions that arise out of other motions.

Incidental motions must be considered before any other motions, i.e. “Madam/Mister Chair, I move to suspend the rules for the purpose of extending the time of this meeting for 30 minutes.”

#### WHEN ARE MOTIONS IN ORDER?

Motions are in order when they are related to the business at hand.

Motions are not meant to be obstructive, frivolous, or against the rules that govern your organization.

#### DO MOTIONS NEED A SECOND?

**YES!** The purpose of a second to the motion indicates that another Member would like to consider the motion for discussion. It also eliminates spending time on subjects that are of interest to only one person. However, if there is no formal second and discussion ensues, the first person who speaks to the motion is considered the seconder.

#### CAN I INTERRUPT THE SPEAKER?

**YES!** If your motion is privileged. However, the speaker regains the floor after the interruption has been addressed.

#### IS A MOTION DEBATABLE?

Parliamentary procedure guards your right to a free and full debate on most motions. However there are some motions that are not debatable, such as: privileged, subsidiary, and incidental motions.

- a. privileged motions – calls for the orders of the day,
- b. subsidiary motions – lay on the table or to limit or extend the limits of debate,
- c. incidental motions – point of order or point of information.

#### CAN MOTIONS BE AMENDED?

**YES!** When the amendments relate to the subject as presented in the main motion.

## CAN MOTIONS BE RECONSIDERED?

**YES!** Some motions can be debated over again and revoted on. This gives members a chance to change their minds. HOWEVER, the motion to reconsider has to be presented from the Winning side.

## HOW DO I PRESENT A MOTION

- A. Obtain the floor by establishing that the last speaker has finished, address the chair by saying, “Madam Chair or Mister Chair”.

After the Chair has recognized you, you can make your motion. [*Mister Chair, I move that we pass the expenditures budget as presented.*]

- B. Wait for a second.

- C. Chair restates the motion by saying, “it has been moved and seconded that we pass the expenditures budget as presented.”

That motion is now on the floor and can’t be changed without the consent of the member who moved and the member who seconded (friendly amendment) or by subsequent formal amendment of the motion.

- D. Discussion on the motion – the person moving the motion speaks first. All comments should be directed to the Chair – who will try to keep debate to a specified time limit. A member can speak on a motion two times – with the suspension of rules a member may be allowed to speak a third time.

- E. After sufficient discussion you can call for the question/vote on a motion. The vote is taken and the Chair announces the results.

## HOW DO I CAST MY VOTE

The methods used to cast votes depend on the situation and the laws that govern your organization!

- **VOICE VOTE** Chair asks, “those in favor say ‘AYE’, those opposed Say ‘NO’ (this method is used for majority vote only)
- **SHOW OF HANDS** This is an alternative to the voice vote.
- **ROLL CALL** This is used when a record of each person’s vote is needed: Yes, No, Present, Abstain (abstain only when there is a reason for the abstention)
- **BALLOT** This is done when secrecy is desired,
- **GENERAL CONSENT** When no member objects to what is being presented – their silence constitutes a favorable vote. [*If there are no objections, this item passes unanimously.*”]

## THE AGENDA

Any organization that has a desire to run smoothly has an agenda. The agenda is essential to the structure of your meeting as it sets out the business of the day. By having an AGENDA, making MOTIONS that are in order, OBTAINING THE FLOOR properly, SPEAKING clearly and by OBEYING THE RULES OF DEBATE, parliamentary procedure helps to get things done.

## HANDLING OF A MOTION

The handling of a motion varies according to conditions; but six steps are essential:

1. **A member makes a motion.**
  - The member must be recognized by the chair before stating his motion.
  - Common form: "I move that . . ."
2. **Another member seconds the motion.**
  - It is not necessary to be recognized prior to seconding a motion.
  - Common form: "Second" or "I second the motion."
3. **The Chair states the question, i.e., s/he states the exact question and indicates that it is open to debate.**
  - Common form: "It has been moved and seconded that . . . Is there any discussion?" or "Are you ready for the question?"
4. **The members debate the motion.**
  - Each member must be recognized before s/he discusses the motion.
  - Discussion must be germane, that is, strictly limited to the merits of the motion on the floor.
5. **The Chair puts the question, i.e., takes the vote.**
  - The affirmative vote is taken first, then the negative
  - Abstentions are not counted.
  - A majority vote means a majority of those who vote for or against a motion. Members present and not voting are not counted.
  - The Chair votes only when his vote will affect the results, that is, to make or break a tie.
6. **The Chair announces the results of the vote.**
  - The vote on any motion is not considered final until the Chair announces the results.

## FOUR PRINCIPLES AFFECTING THE HANDLING OF A MOTION

1. Only one main motion can be pending at a time.
2. The same or substantially the same question cannot be considered twice during the same session.

3. If a main motion has to be temporarily disposed of, the same or substantially the same question cannot be introduced again while it is still under the control of the assembly.
4. Once a motion has been adopted, the same question cannot be renewed unless the motion is rescinded or reconsidered.

## METHODS OF VOTING

1. Viva Voce' (by the voice).
2. Show of Hands.
3. Rising Vote.
4. Counted Vote.
5. Roll Call.
6. Ballot Vote.
7. Unanimous (General) Consent.
8. Majority Vote.
9. Plurality Vote.
10. Two-Thirds Vote.
11. Tie Vote.

(On a tie vote the motion is lost. If the presiding officer is a member of the assembly, s/he may vote to make or break a tie, and in all other cases where his/her vote would change the results.)

## USE THE RIGHT MOTION

To introduce a subject, make a **main motion**.

To kill or reject a main motion without a direct vote on it, move to **postpone indefinitely**.

To change a pending motion, move to **amend**.

To send a pending question to a small group for further study, move to **commit to refer**.

To put off action of a decision until later in the same or next meeting, move to **postpone definitely**.

To change the rules of debate, move to **limit or extend limits of debate**.

To close debate, move the **previous question** [*this takes a second and a vote of 2/3rds of those present*].

To set aside the pending question temporarily, move to **lay on the table**.

After some other business has transpired or at the next meeting when you want to take the matter up again, move to **take from the table**.

To require the chair to follow the adopted program or agenda, **call for the orders of the day**.

To secure a privilege, rise to a **question of privilege**.

To take a short break in the meeting, move to **recess**.

To close a meeting, move to **adjourn**.

To set a time to continue the business without adjourning the present meeting, move to **fix the time to which to adjourn**.

To enforce the rules, rise to a **point of order**.

To reverse or question the decision of the chair, **appeal**.

To question the correctness of a voice vote or vote by show of hands as announced by the chair, call for a **division of the assembly**.

## MOTIONS THAT BRING A QUESTION AGAIN BEFORE THE ASSEMBLY

**BRING BACK MOTIONS** – Bring a question again before the assembly enables the assembly for good reason to reopen a completed question during the same session, or to take up one that has been temporarily disposed of, or to change something previously adopted and still in force.

### **TAKE FROM THE TABLE:**

Used to resume consideration of a main motion which lies on the table.

### **RESCIND:**

Used to strike out an entire main motion, resolution, rule, bylaw, section, or paragraph that has been adopted.

### **AMEND SOMETHING PREVIOUSLY ADOPTED (another form of rescind):**

Used to modify a part of the wording or text previously adopted or to substitute a different version.

### **DISCHARGE A COMMITTEE:**

Used when it is desired to take a matter back from a committee so that the assembly itself can consider or act upon it or so it can be dropped.

The motion must be made before the committee has made a final report.

### **RECONSIDER:**

Used when new information is received within the same session that makes it appear that a different result might reflect the true will of the assembly.

The member making the motion must have vetoed on the prevailing side when the motion was voted on the first time.

The motion may be made at any time; however, it can only be considered when nothing else is pending.

Cannot be reconsidered - If the vote on reconsideration is lost, it can only be renewed by unanimous consent.

## INCIDENTAL MOTIONS

### Relating to the Chair:

1. **Point of Order** – Calls attention to a breach of orders and requires the chair to make a ruling on the question involved.
2. **Appeal** – Any two members may immediately after the chair has made a ruling, require the Chair to submit the matter to a vote of the assembly.
3. **Suspend the Rules** – Permits a question to be taken up that would be in violation of a rule of the assembly.
4. **Objection to Consideration of the Question** – Objection may be made by any member before debate has begun; the assembly then votes on whether the main motion should be considered (and if there is a 2/3 vote against consideration, the motion is dropped).

### Relating to individual members:

1. **Division of a question** – When a main motion contains two or more parts capable of standing as separate questions, the assembly can vote to treat each part separately.
2. **Consideration by Paragraph or Seriatim** – If the main motion is in the form of a resolution or a document containing several paragraphs or sections, each section or paragraph may be handled separately one at a time, and then the whole motion is voted on.
3. **Division of the Assembly** – Whenever one member doubts the accuracy of the chair's announcement of the result of a voice vote (or vote by show of hands), s/he can demand a standing vote, but not a counted vote (which only the chair or the assembly can do.)
4. **Motions Relating to Methods of voting and the Polls** – A member can move that the vote be taken by ballot, by roll call, or by counted standing vote. This section also applies to opening, closing or reopening the polls.
5. **Motions Relating to Nominations** – If the bylaws or rules of the assembly are silent regarding nominations, any member may move while the election is pending to specify one of the various methods by which candidates shall be nominated, to close nominations, or to reopen them.

### Relating to the assembly – Requests and Inquiries:

1. **Parliamentary Inquiry** – A request for the Chair's opinion on a matter of parliamentary procedure as it relates to the business at hand – not a ruling.
2. **Point of Information** – An inquiry as to facts affecting the business at hand – directed to the Chair or, through the Chair, to any other member.
3. **Request for Permission (or Leave) to Withdraw or Modify a Motion** – After it has been stated by the Chair and is in the possession of the assembly.
4. **Request to Read Papers** – If any member objects, a member has no right to read from, or have the secretary read from, any paper or book as a part of his speech without permission of the assembly.
5. **Request to be Excused from a Duty** – Request from a member to be excused from any duty – whether it is compulsory or not. A resignation from office is a request to be excused from a duty.
6. **Request for any Other Privilege** – A member may request to address remarks to make a presentation when no motion is pending.

## TYPES OF MOTIONS AND THEIR ORDER OF PRECEDENCE

	Privilege Motions	Interrupt Speaker	Second Needed	Debat-able	Amend-able	Vote Required
13.	To fix the time of the next meeting	No	Yes	No	Yes	Maj.
12.	To adjourn the meeting	No	Yes	No	No	Maj.
11.	To recess the meeting	No	Yes	No	Yes	Maj.
10.	To rise to a question of privilege	Yes	No	No	No	Chair
9.	To call for the orders of the day [agenda]	Yes	No	No	No	Chair
Subsidiary Motions						
8.	To <i>lay on</i> or <i>take from</i> the table	No	Yes	No	No	Maj.
7.	To call for the previous question	No	Yes	No	No	2/3
6.	To limit or extend debate	No	Yes	No	Yes	2/3
5.	To postpone to a certain time	No	Yes	Yes	Yes	Maj.
4.	To refer to committee	No	Yes	Yes	Yes	Maj.
3.	To Amend	No	Yes	Yes	Yes	Maj.
2.	To postpone indefinitely	No	Yes	Yes	No	Maj.
Main Motions						
1.	A general main motion on the floor	No	Yes	Yes	Yes	Maj.
1a.	To reconsider	Yes	Yes	Yes	No	Maj.
1b.	To rescind	No	Yes	Yes	No	Maj.

\*\*\*\*\*

	Incidental Motions					
a.	To rise to a point of order	Yes	No	No	No	Chair
b.	To appeal a decision of the chair	Yes	Yes	No	No	Maj.
c.	To make a parliamentary inquiry	Yes	No	No	No	Chair
d.	To suspend the rules	No	Yes	No	No	2/3
e.	To withdraw a motion	No	No	No	No	Maj.
f.	To call for a division of the assembly	Yes	No	No	No	Chair
g.	To call for a division of the question	No	No	No	No	Chair
h.	To object to the consideration of a ques.	Yes	No	No	No	2/3

*To interrupt proceedings* – debate by another member, the following should be used:

Point of Personal Privilege – [to respond to an offense to rights, reputation, etc.]

Point of Order – [a means to request the body to follow its own rules.]

Appeal a Ruling of the Chair – to take exception to a ruling

Parliamentary Inquiry – a request for information concerning procedure

Moving the previous Question – requires 2/3 vote; if passed, must vote at once

Moving to Postpone Further Consideration – must be to a time of specific point in procedures

## HOW TO ACCOMPLISH WHAT YOU WANT TO DO IN MEETINGS

### *MAIN MOTION*

You want to propose a new idea or action for the group.

- After recognition, make a main motion.
- Member: "Madame Chairman, I move that \_\_\_\_\_."

### *AMENDING A MOTION*

- You want to change some of the wording that is being discussed.
- After recognition, "Madame Chairman, I move that the motion be amended by adding the following words \_\_\_\_\_."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words \_\_\_\_\_."
- After recognition, "Madame Chairman, I move that the motion be amended by striking out the following words, \_\_\_\_\_, and adding in their place the following words \_\_\_\_\_."

### *LIMIT DEBATE*

You think discussion is getting long, but you want to give a reasonable length of time for consideration of the question.

- After recognition, "Madam President, I move to limit discussion to two minutes per speaker."

### *RECESS*

You want to take a break for a while.

- After recognition, "Madame Moderator, I move to recess for ten minutes."

### *ADJOURNMENT*

You want the meeting to end.

- After recognition, "Madame Chairman, I move to adjourn."

### *PERMISSION TO WITHDRAW A MOTION*

You have made a motion and after discussion, are sorry you made it.

- After recognition, "Madam President, I ask permission to withdraw my motion."

### *POINT OF ORDER*

It is obvious that the meeting is not following proper rules.

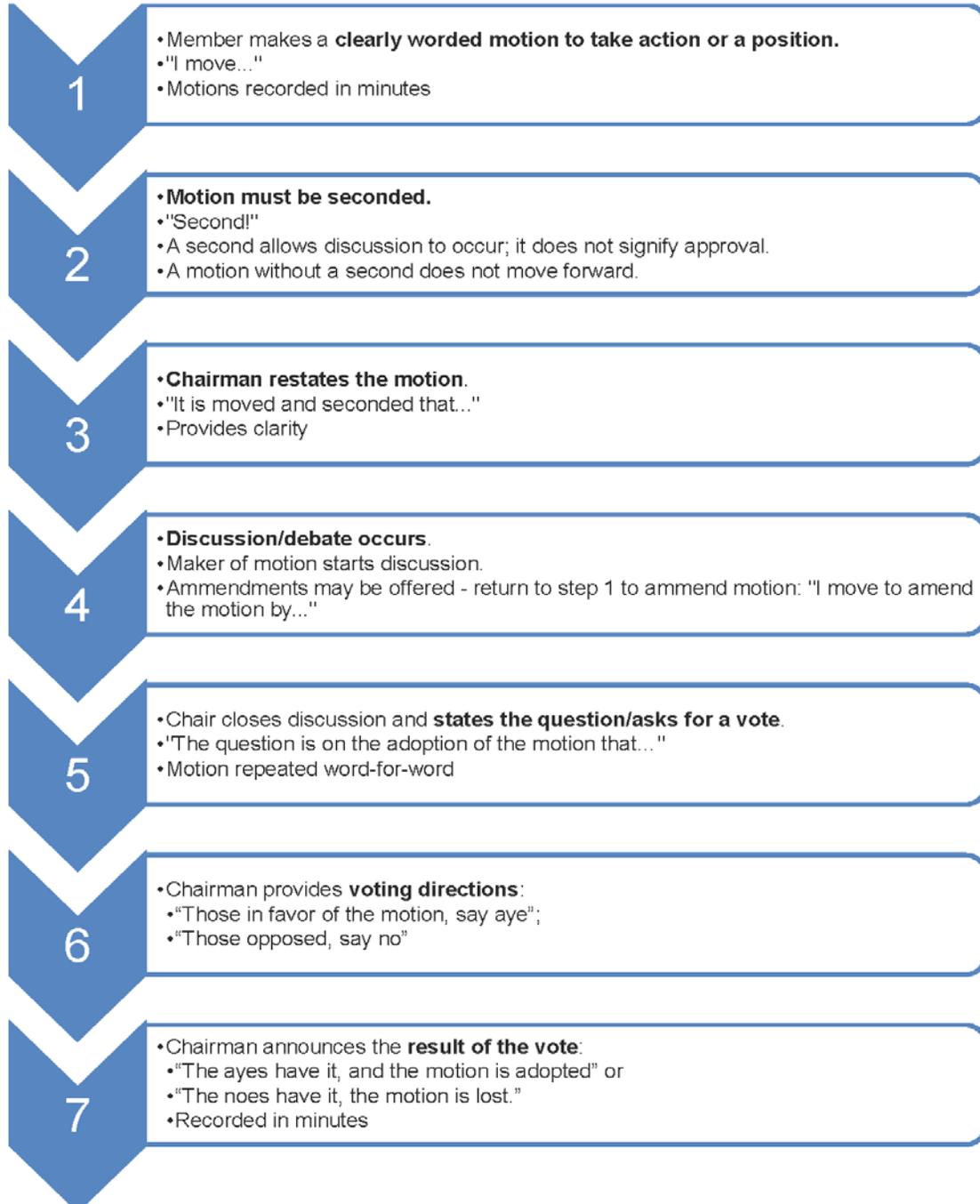
- Without recognition, "I rise to a point of order," or "Point of order."

# Robert's Rules of Order

The Sustainability Advisory Committee generally follows Roberts Rules of Order modified as noted in the By-laws.

## Robert's Rules of Order Cheat Sheet

### HOW TO INTRODUCE NEW BUSINESS – The Main Motion Process



## Robert's Rules of Order Cheat Sheet

### WHAT DO I SAY?

To Do This	Motion	You Say This	Debate Allowed?	Vote Required
Introduce Business	Main	"I move that..."	Yes	Majority
Second a Motion	Second	"Second!"	No	No
Change the Wording or add Clarity of a Motion	Amend	"I move to amend the motion by..." (adding words; striking out words; substitute words)	Yes	Majority
Send to Committee	Commit/Refer	"I move the motion be referred to ..."	Yes	Majority
Postpone Action until a Specific Time	Postpone	"I move the motion be postponed until..." (provide a specific time on the agenda or next meeting date)	Yes	Majority
Postpone Action until an Unspecified Time (a motion will be required to discuss in the future)	Lay on the Table	"I move to lay the motion on the table."	No	Majority
Limit Debate	Limit Debate	"I move that the debate on this motion be limited to (one) speech of (two) minutes for each member."	No	Two-thirds
End Debate or Request a Vote	Previous Question	"I move the previous question."	No	Two-thirds
Take Intermission	Recess	"I move to recess for (time)."	No	Majority
Close Meeting	Adjourn	"I move to adjourn."	No	Majority

## **Robert's Rules of Order Additional Information**

### **Why follow Robert's Rules of Order?**

- Allows for democratic speech and action
- Preserves order
- Rights of the organization supersede the rights of individuals
- Facilitates group decisions

### **Meeting Agendas**

1. Approval of Minutes
2. Reports (from officers, committees, task forces)
3. Unfinished Business (replaces term "old business")
4. New Business – items brought forward by motion procedure

### **Meeting Minutes**

- Minutes are a legal record of meetings and the organization.
- Minutes are a record of what is done at a meeting, not what is said.

#### Minutes should include:

1. Name, date and location of meeting
2. List of attendees (note presence of a quorum)
3. Time meeting was called to order
4. Conflict of Interest & Antitrust Avoidance Affirmation
5. Approval of previous meeting minutes
6. Motion text and name of maker
7. Status/results of motions
8. Time meeting was adjourned

#### Minutes do not include:

- Discussion
- Personal opinion
- Name of seconder of a motion is not necessary
- Motions withdrawn
- Entire reports (rather attach to minutes)

### **Motion**

- A motion is a formal proposal by a member that the group take a certain action or position.
- A main motion is required to begin the decision making process.
- A motion occurs prior to discussion

### **Ground Rules for Debating**

- Remarks must be germane (relevant and appropriate to the discussion); stay on subject.
- Debate issues, not personalities



## **APPENDIX 7**

### **Illinois Open Meetings Act**

*Frequently Asked Questions for Public Bodies*

The Illinois Open Meetings Act (OMA) is designed to ensure that the public has access to information about government and its decision-making process. As a public servant, you have a duty to ensure that Illinois residents can obtain information about their government.

In 2009, Attorney General Lisa Madigan worked with legislators and a diverse group of individuals and organizations to strengthen transparency laws in Illinois and hold government more accountable. On January 1, 2010, key changes to the Open Meetings Act took effect to provide Illinois residents with a more open and accountable government.

### **WHO'S WHO UNDER OMA**

**Public Access Counselor (PAC)** – An attorney in the Attorney General’s Office who works to ensure compliance with OMA and the Illinois Freedom of Information Act (FOIA). The Public Access Counselor oversees the Public Access Bureau in the Attorney General’s Office, which includes several Assistant Attorneys General and professional support staff members working to respond to OMA and FOIA issues raised by the public and government officials. Working under the direction and supervision of the Attorney General, the PAC has the authority to determine whether a public body has violated the Open Meetings Act. The PAC also has the authority to review requests for documents under FOIA and determine whether those documents should have been disclosed. As part of this Public Access work, the Attorney General has subpoena power, may issue advisory opinions to guide public bodies, may issue binding opinions in OMA and FOIA disputes, and may sue to enforce binding opinions.

**"Public Body"** – The Open Meetings Act defines “public body” to include “all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof.”

Under OMA, "public body" also includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. OMA specifically provides that “public body” does not include a child death review team, the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, or an ethics commission acting under the State Officials and Employees Ethics Act.

**"Meeting"** – The Open Meetings Act defines a “meeting” to include “any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a

public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business. Accordingly, for a 5-member public body, 3 members of the body constitute a quorum and the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.”

## **GENERAL INFORMATION**

### **What is the Open Meetings Act (OMA)?**

The Open Meetings Act is a state law that requires that meetings of public bodies be open to the public except in certain specific, limited situations (discussed in more detail below) where the law authorizes the public body to close a meeting. OMA also provides that the public must be given advance notice of the time, place and subject matter of the meetings of public bodies.

**What is the difference between the Freedom of Information Act (FOIA) and OMA?** FOIA applies when a member of the public is seeking access to public records. OMA is intended to ensure that the actions of public bodies are conducted in the open, through public meetings, and that the public is able to observe the deliberations behind those actions.

### **What type of “public body” is covered by OMA?**

The “public bodies” covered by OMA include all legislative, executive, administrative or advisory bodies of:

- the State
- counties
- townships, cities, villages, or incorporated towns
- school districts
- all municipal corporations

“Public bodies” also includes all committees, subcommittees and subsidiary bodies of public bodies. Examples of “public bodies” include everything from park district boards to city councils to civic commissions. “Public bodies” includes, but is not limited to, any entity that is supported in whole or in part by tax revenue or which expends tax revenue.

### **What information is the public body required to provide to the Public Access Counselor?**

Each public body must designate employees, officers and/or members to receive OMA electronic training provided by the Public Access Counselor. The public body must provide a list of these designated individuals to the Public Access Counselor.

## **TRAINING FOR EMPLOYEES, OFFICERS, AND MEMBERS**

**Who needs to complete the Public Access Counselor’s electronic OMA training?** Each public body must designate employees, officers or members to receive training on compliance with the Open Meetings Act. The Public Access Counselor must provide an electronic training program for these individuals to take. These individuals must complete the Public Access Counselor electronic training annually.

**In addition, beginning January 1, 2012, all elected or appointed members of a public body subject to OMA must also complete the electronic training and file a copy of the certificate of completion with the public body once during their term of election or appointment as follows:**

- Any person who is an elected or appointed member of a public body subject to the Act **on** January 1, 2012, must complete the electronic training between January 1, 2012, and January 1, 2013.
- Any person who becomes an elected or appointed member of a public body subject to the Act **after** January 1, 2012, must complete the electronic training no later than the 90th day after taking the oath of office or, if not required to take an oath of office, after otherwise assuming responsibilities as a member of the public body.

Elected or appointed members need not complete the electronic training on an annual basis thereafter unless they are also designated to receive training on compliance with the Open Meetings Act.

**What does the public body need to do if it designates additional individuals to take the Public Access Counselor training?**

At any time, a public body may designate new or additional employees, officers or members to receive training on compliance with OMA. If a public body designates new or additional individuals, those individuals must complete the training within 30 calendar days of their designation.

**PUBLIC MEETING**

**How many members of the public body have to be present at a “meeting” before OMA requirements apply?**

A “meeting” under OMA is a gathering of a majority of a quorum of the members of a public body for the purpose of discussing public business. For example, for a 7-member board with a quorum of 4, a majority of the quorum would be 3. Under OMA, 5-member bodies have a 3-member quorum and require the affirmative vote of 3 members to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.

**Before a public body takes a vote on an issue at a meeting, what must it do?**

Any vote, or final action, must be preceded by a public recital of the nature of the matter being considered and any other information that will inform the public of the business being conducted.

**If an item is not listed on the posted agenda for a regular meeting, is the public body prohibited from taking action on the item at that meeting?**

Yes. OMA permits discussion during regular meetings of items not specifically set forth on the agenda. The Open Meetings Act, however, does not permit the taking of a vote on such a matter at that meeting.

**Is a public body required to provide members of the public with a copy of its “board packet” at an open meeting?**

No. At the time of an open meeting, a public body is not required to disseminate or provide the public with copies of its “board packet” or reference information. It is important to note, however, that the information contained within a “board packet” is subject to the Freedom of Information Act and a member of the public can request copies of that material through FOIA.

## **PUBLIC NOTICE OF A MEETING**

### **What is public notice?**

Giving public notice means providing the date, time and location of a meeting.

### **When and how does a notice of a regular meeting have to be provided by a public body?**

At the beginning of each calendar or fiscal year, every public body must create and make available to the public the schedule for regular meetings that year, including the dates, times, and locations of the meetings. Notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. If the public body has a website maintained by its own full-time staff, then notice of all meetings must also be posted on that website.

If the public body changes the regular meeting schedule (as opposed to a particular meeting), it must give 10 calendar days’ notice of the change by publicizing the change in the newspaper and by posting information concerning the schedule change at the principal office of the public body.

The public body must post an agenda (see below) for the particular meeting at the principal office of the public body, at the location of the meeting, and on the public body’s website (if it has a website maintained by its own full-time staff) at least 48 hours in advance of the meeting.

## **MEETING AGENDA**

### **What is an agenda?**

An agenda is a list of the items to be acted upon or discussed during a meeting.

### **Can the agenda be changed?**

A public body cannot change the agenda less than 48 hours before the meeting.

### **Can the public body take action on items not on the agenda of regular meetings?** No.

While the public body can discuss items that are not on the agenda of a regular meeting, the public body cannot take action or make any decision with regard to items or topics not on the agenda of a regular meeting. It is important to note that at a special or emergency meeting, unlike a regular meeting, a public body cannot even discuss items that did not appear on the agenda for the special or emergency meeting.

### **Is a public body required to allow a member of the public to speak at an open meeting?**

The Open Meetings Act requires that public bodies give members of the public an opportunity to speak at a public meeting. Public bodies are authorized to adopt rules regarding the public comment portion of a meeting. Such rules may limit the time allotted for the public to speak.

## **TIME AND LOCATION OF A MEETING**

### **When and where does an open public meeting need to be held?**

A public body must hold a meeting at a specific time and place that is convenient and open to the public. A public body cannot hold a meeting on a public holiday, unless the regularly scheduled meeting falls on that holiday.

## **RECORDING OF A MEETING**

### **May a member of the public record an open meeting?**

Yes. Any member of the public can record the meeting by tape, film, or other means, subject to some reasonable restrictions.

### **Is the public body required to take minutes of its open meetings?**

Yes. The minutes must include:

- the date, time and place of the meeting;
- a list of the members present and absent from the meeting, and whether they attended in person, by phone, or by video;
- a summary of the discussion of all matters proposed, deliberated, or decided; and
- a record of any votes taken.

It is important to note that subsidiary bodies of public bodies (such as committees and subcommittees) are also required to take minutes of meetings.

A public body must make minutes of the meeting available for public inspection and post them on the public body's website (if it has one) within 7 calendar days after the minutes are approved by the public body. Typically, the minutes are approved at the next board meeting.

## **EXCEPTIONS TO OPEN MEETINGS – CLOSED SESSIONS**

### **When can a meeting be “closed”? Can a public body ever meet in private?**

Section 2(c) of the Open Meetings Act provides that a public body can close a meeting to the public only when the following topics are to be considered:

- the appointment, employment, compensation, discipline, performance, or dismissal of a specific employee or legal counsel for the public body;
- collective negotiating matters or deliberations concerning salary schedules for one or more classes of employees;
- discipline or removal of an occupant of a public office or appointment of an individual to fill a vacant public office;
- evidence or testimony received in a hearing, provided that the body is a quasi-adjudicative body and prepares and makes available for public inspection a written decision setting forth its determinative reasoning;
- the purchase or lease of real property by the public body;
- the setting of a price for sale or lease of property owned by the public body;

- the sale or purchase of securities, investments, or investment contracts;
- security procedures;
- student disciplinary cases;
- the placement of individual students in special education programs and other matters relating to individual students;
- pending or probable litigation against, affecting or on behalf of the public body;
- the establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act;
- conciliation of complaints of discrimination in the sale or rental of housing;
- ongoing, prior or future criminal investigations, when discussed by public bodies with criminal investigatory responsibilities;
- professional ethics or performance when discussed by an advisory body to a licensing or regulatory agency;
- discussions regarding self-evaluation, practices and procedures or professional ethics with representatives of statewide associations;
- the recruitment, credentialing, discipline or formal peer review of physicians or other health care professionals for a hospital or other health care center;
- deliberations for decisions of the Prisoner Review Board;
- review or discussion of applications received under the Experimental Organ Transplantation Procedures Act;
- classification and discussion of confidential matters of the State Government Suggestion Award Board;
- discussion of the minutes of a meeting that was lawfully closed under OMA;
- deliberations of the State Emergency Medical Services Disciplinary Review Board;
- the operation by a municipality of a municipal utility or power agency or natural gas agency regarding contracts relating to the purchase, sale or delivery of electricity or natural gas, or the results or conclusions of lead forecast studies;
- meetings of a residential health care facility resident sexual assault and death review team;
- discussions involving internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America; and
- correspondence and records that may not be disclosed under Section 11-9 of the Public Aid Code, 305 ILCS 5/1-1 *et seq.*, or that pertain to appeals under Section 11-8 of the Public Aid Code.

A public body can close a meeting to the public only if its members are discussing a topic that is listed in section 2(c) of the Open Meetings Act.

### **How can a public body “close” a public meeting?**

If a public body wants to hold a closed session, the public body must first meet in a properly noticed open meeting, then vote to close the meeting by a majority vote of a quorum present. The public body must cite the specific exemption in the Open Meetings Act that applies and allows the

closure of the meeting.

**Who can attend a “closed” session?**

Only the members of the public body and others who are directly involved in the matter which is the basis for the closed meeting may attend the meeting. For example, witnesses giving testimony regarding a complaint against an employee may attend a meeting that is closed for purposes of discussing discipline of an employee.

**Can a public body take binding action in a closed session?**

No. A public body may not take any final action in a closed session.

**How must a public body record a closed meeting?**

A public body must make a verbatim record, by audio or video, of any closed session and take minutes of the meeting. Semi-annually, the public body must meet to review the minutes of any closed sessions that occurred and determine whether the minutes of those closed sessions need to remain confidential. If the public body determines that it is no longer necessary to have the minutes remain confidential, it must make the minutes available to the public.

**ATTENDING A MEETING BY PHONE OR VIDEO CONFERENCE**

**Can a member of a public body attend a meeting by telephone or video conference and not in person?**

A member of a public body may attend a meeting by telephone or video conference only in accordance with and to the extent allowed by the rules of the public body. 5 ILCS 120/7(c). If a quorum of the members of the public body is physically present, then a majority of the public body may allow a member to attend by video or telephone conference if the member is prevented from physically attending because of (1) personal illness or disability; (2) employment purposes or the business of the public body; or (3) a family or other emergency. If a member wants to attend the meeting by video or telephone conference, he or she must notify the recording secretary or clerk of the public body before the meeting, unless advance notice is impractical.

**IF A MEMBER OF THE PUBLIC BELIEVES THAT A PUBLIC BODY HAS VIOLATED THE OPEN MEETINGS ACT, HE OR SHE CAN TAKE ACTION. HERE IS WHAT YOU NEED TO KNOW.**

**What can a member of the public do if he or she thinks the public body has violated OMA?**

Within 60 calendar days from when the alleged violation occurred, a member of the public can file a Request for Review of the matter with the Public Access Counselor at the Office of the Attorney General, or can bring a civil action in circuit court against the public body. In addition, the State’s Attorney of the county in which the alleged violation occurred may bring a civil action in circuit court within 60 calendar days after the violation occurred or within 60 calendar days of the discovery of the violation by the State’s Attorney.

**What is a Request for Review?**

A Request for Review is a letter sent to the Public Access Counselor which lays out the basis

for an alleged violation of OMA. The request must be made in writing, must be signed by the requester and must include a summary of the facts supporting the allegation.

**Is there a deadline for submitting a Request for Review?**

Yes. A person seeking review of an issue by the PAC must send the Request for Review to the PAC within 60 calendar days after the date of the alleged OMA violation.

**What happens if a member of the public submits a Request for Review to the PAC and what are the responsibilities of the public body?**

When the PAC receives a written Request for Review from the member of the public, the PAC has seven working days to determine whether further action is warranted. 5 ILCS 120.3.5(b).

If the Public Access Counselor reviews the Request for Review and determines that further action is warranted, she must forward a copy of the Request for Review to the public body within 7 working days of receiving the request. At that time, the PAC can specify records or other documents that the public body must furnish to facilitate the PAC's review. The public body must provide the requested records within 7 working days of receiving the request from the PAC.

Within 7 working days of receiving the request from the PAC, the public body may, but is not required to, provide an answer to the allegations in the Request for Review. The answer may take the form of a letter, brief or memorandum.

The Public Access Counselor must forward a copy of the public body's answer (with any confidential information redacted) to the member of the public who requested the review of the alleged OMA violation. The requester then may, but is not required to, respond in writing to the public body's answer. If the requester decides to respond, he or she must do so within 7 working days of receiving the public body's answer. The requester must send a copy of his or her response to the public body.

Once she has all of the necessary information to analyze the OMA issue and determine whether the public body violated the law, the PAC may:

- Decide that no further review is necessary and that the allegations are unfounded.
- Mediate and work to resolve the dispute. The PAC can decide to work informally to try to mediate the dispute between the member of the public and the public body.
- Issue an opinion resolving the matter. If the PAC decides to issue a binding opinion, she must issue the opinion within 60 days after receiving all the documents necessary to make a determination of the issues raised in the Request for Review. Under OMA, the PAC may extend this time by up to 21 business days by sending written notice to the requester and the public body and including an explanation of the reasons for the need for an extension of time.

**What kind of information can the PAC request as she reviews the Request for Review?**

The PAC can request any information necessary to decide whether an OMA violation has occurred. Under OMA, the PAC has the same authority as a court to request and review any audio or video tapes of a closed meeting.

**What are the penalties that a public body may incur if it violates the Open Meetings Act?**

**Criminal Penalties:** Under the law, a State's Attorney may bring a criminal action for a violation of the Open Meetings Act. A violation of OMA is a Class C misdemeanor, which is punishable by up to 30 days in jail and a fine of up to \$1,000.

**Civil Penalties:** In a civil lawsuit for a violation of OMA, a court may take a number of actions, including (1) ordering a public body to conduct an open meeting, (2) granting an injunction against future violations by the public body, (3) ordering the public body to make available to the public the minutes of a closed meeting, (4) declaring null and void any final action taken at a closed meeting in violation of OMA, or (5) awarding any other relief that the court deems appropriate. The court also may require the public body to pay the attorney's fees and costs of the person who filed the civil lawsuit alleging the OMA violation.



**APPENDIX 8 -- ACTIONS BY CITY COUNCIL<sup>1</sup>**

<b>ACTION ITEM<sup>2</sup></b>	<b>CORP. AUTH'S.</b>	<b>ROLL CALL</b>	<b>VOTE</b>
<b>Finance, Budget, Purchasing</b>			
Bids in excess of \$25,000, waiver of advertising § 8-9-1	Yes	-	2/3 – 5*
Budget, liability against City. § 3.1-40-40	Yes	Yes	Majority***
Budge approval. § 8-2-9.4	Yes	Yes	Majority**
Budget, expend money. § 3.1-40-40	Yes	Yes	Majority***
Budget, revise annual budget. § 8-2-9.6	Yes	-	2/3 – 6***
Budget, emergency appropriations for emergency improvements or restoration. § 8-1-6	Yes	Yes	2/3 – 6**
Budget transfer within department. § 8-2-7	Yes	Yes	Majority
Budget transfers after first half of FY within department	Yes	Yes	2/3 – 6***
Bond issues. § 11-74-6	Yes	Yes	3/5 – 6***
<b>Emergencies</b>			
Emergency ordinance, immediate effect. § 1-2-4	Yes	-	2/3 – 6***
Emergency contracts. § 8-10-5	Yes	Yes	Majority***
<b>Property, Disconnection</b>			
<b>Annexation</b>			
Property, annex to City. § 7-1-8	Yes	Yes	Majority***
Property, annexation agreements. § 11-15.1-3	Yes	-	2/3 – 6***
Property, disconnect. § 7-1-24	Yes	-	Majority***
<b>Zoning</b>			
Property, zoning, special uses, <u>no</u> protest. § 11-13-1.1; ZO § VII-4.F.	-	-	Majority*
Property, zoning, special uses, <u>with</u> protest. § 11-13-1.1; ZO §§ VII-4.G.; XI-11.	-		2/3 – 6***
Property, zoning, variances, <u>no</u> protest. § 5/11-13-10; ZO § XI-3.C.2(d)(3)	-	Yes	Majority**
Property, zoning, variances, <u>with</u> protest. § 5/11-13-10; ZO § XI-11	-	Yes	2/3 – 5*
Property, zoning, variances, no ZBA approval by 2/3rds vote. ZO § XI-3.C.2(d)(1)	-	Yes	2/3 – 6*
Property, zoning, adaptive reuse. §§ VII-7.B.; VII-4.	-	Yes	Majority

<sup>1</sup> All actions by Committee of the Whole require simply majority of a quorum of Committee members.

<sup>2</sup> All citations are to the Illinois Municipal Code (and appear as, e.g., § 1-1-1) and Urbana Zoning Ordinance (and appear as, e.g., ZO § II-A).

<b>ACTION ITEM</b>	<b>CORP. AUTH.</b>	<b>ROLL CALL</b>	<b>VOTE</b>
Property, ZO amendments. ZO § XI-F.	-	Yes	Majority
Property, redevelopment plan for blighted areas. § 11-74.2-6	Yes	-	2/3 – 6***
<b>Sales, Leases, Exchanges, Vacating Rows</b>			
Property, sale, leases for more than 20 years acceptance of bid. §§ 11-76-2; 11-76-4.1	Yes	-	3/4 - 6***
Property, sales or leases for more than 20 years or sales – rejection of bid §§ 11-76-2	Yes	-	Majority***
Property, purchase or leases for 20 years or less. § 11-76.1-1	Yes	-	2/3 – 6***
Property, sale of surplus real estate, appraisal . § 11-76-4.1	Yes	-	2/3 – 6***
Property, leases of equipment for not more than 20 years. §11-76.1-1	Yes	-	2/3 – 6***
Property, lease equipment for 5 years or less. § 11-76-6	Yes	Yes	2/3 – 6***
Property, exchange real estate. § 11-76.2-1	Yes	-	3/4 – 6***
Property, vacating ROWs, alleys § 11-91-1	Yes	Yes	3/4 - 6*
<b>Procedural Matters</b>			
Ordinances should be approved by roll call vote		-	
To go into closed session	-	Yes	Majority
Omnibus vote to take ordinances in omnibus fashion. § 3.1-40-40	Yes	<sup>3</sup>	Unanimous
Mayoral veto override. § 3.1-40-50	-	Yes	2/3 – 6*
Appointment of officers § 3.1-30-5(a)	-	-	Majority
Appointees, discontinue position § 3.1-30-5(b)	-	-	2/3 – 6**
Appointees, filling vacancies in appointed officers § 3.1-30-5(c)	-	-	Majority
Appointees, rejection of mayor’s removal of appointee. § 3.1-35-10	-	Yes	2/3 – 6*
Council rules, adopt, amend, delete, suspend. UCC Sec. 2-27(1)	-	-	2/3
Postpone of agenda item first time. UCC Sec. 2-27(4)	-	-	Mot & 2 <sup>nd</sup>
Postpone of agenda item after first postponement. UCC Sec. 2-27(4)	-	-	3/4 - 6
Reconsideration of prior action – same number of Alderpersons must be present as were present when prior vote taken. § 3.1-40-55.	-	-	Majority

<sup>3</sup> If any one of the matters to be considered in omnibus fashion requires a roll call vote then the vote on the ordinances considered in omnibus fashion requires a roll call vote. If one of the matters to be considered in omnibus fashion requires a super-majority vote of the corporate authorities, then the omnibus vote must pass by the highest super-majority required.

Mayor votes as part of corporate authorities or to break tie by Council. § 3.1-40-30	-	-	-
Mayor, other than when voting as part of the corporate authorities, does not vote except (i) where the vote of Alderpersons results in a tie; or (ii) where a supermajority is required for passage of an ordinance or resolution. § 3.1-40-30.			
Vote to release minutes of executive sessions. OMA § 2.06	No	No	Majority
<b>Taxes, Licenses</b>			
Taxes & Licenses – Municipal Retailers’ Occupation Tax. § 8-11-1	Yes	-	Majority**
Taxes & Licenses – Cigarette Tax. § 8-11-3	Yes	-	Majority**
Taxes & Licenses – Taxi Drivers. § 11-42-6	Yes	-	Majority**

\* Alderpersons then holding office.

\*\* Corporate authorities – Mayor and Alderpersons present.

\*\*\* Corporate authorities then holding office – Mayor and Alderpersons holding office.