



Date of Council Meeting: April 12, 2016

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Council's Rules of Order and Procedure

Staff Contact: Barbara Notar, Town Attorney

Council Action Requested: Amend Council's Rules of Order and Procedure to allow closed meetings to occur on work session evenings.

Staff Recommendation: If Council desires flexibility in scheduling closed sessions, its Rules of Order and Procedure should be amended to allow closed sessions to occur during Council work sessions.

Commission Recommendation: Not applicable.

Fiscal Impact: None.

Work Plan Impact: None.

Executive Summary: Under Council's current Rules of Order and Procedure ("Rules"), Section 10, entitled, Committee of the Whole/Council Work Session, states that, "[n]o formal action may be taken at the committee of the whole work session." In the recent past, closed meetings (or what is also referred to as "closed sessions"), have occasionally been placed on the work session agendas due to heavy regular business meeting agendas. However, under Va. Code §§ 2.2-3711 and 2.2-3712 Council is required to take at least 2 votes--before entering a closed session and, in an open meeting upon conclusion of the closed session. These votes are considered "formal actions" and in order to comply with its Rules, if Council wishes to hold closed sessions during its work sessions, Council should amend them.

Background: Under Virginia law, at least 2 votes must be taken by Council for every closed meeting/session. Va. Code § 2.2-3712 states:

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting and (iii) makes specific reference to the applicable exemption from open meeting requirements provided in § 2.2-3707 or subsection A of § 2.2-3711. (emphasis added)

Additionally, 2.2-3712 () states:

D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

Finally, if action is to be taken after the closed session, 2.2-3711(B) states:

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

Attachment:

- 1) Resolution
- 2) Proposed amended Council Rules of Order and Procedure

Rules of Procedure:

Section 1 Time and Place of Regular Business Meeting.

The council shall meet in formal session at 7:30 p.m., on the second and fourth Tuesday in each month in the Council Chambers, 25 West Market Street. The Council does not meet the fourth Tuesdays of August and December.

(Ord. No. 83-O-41, §1, 3-28-90; Ord. No. 90-O-37, §1, 11-14-90)

Charter references: One regular monthly meeting of council required and authority of council to adopt rules for time of its meeting, § 2-7.

Section 1. Cancellation of Meetings.

At its annual meeting, the governing body may fix the day or days to which a regular business meeting shall be continued if the chairman or mayor, or vice-chairman or vice-mayor, if the chairman or mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular business meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

Section 2. Special Meetings and Alternate Locations

The Council may determine that from time to time it may wish to meet at alternate locations within the Town of Leesburg. The Council may also establish special meetings at a time and location to be duly advertised in compliance with the Freedom of Information Act.

Section 3. Mayor Presides over Meetings

As referenced in the Town Charter, the Mayor shall preside at all meetings unless absent or must relinquish the chair due to a conflict of interest. The Vice-Mayor shall preside at meetings when the Mayor is not present. Should the Mayor or Vice-Mayor not be present to preside at a meeting, then the member of Council with the most seniority will chair the meeting.

Section 4. Order of Business at Regular Business Meetings

The order of business at regular business meetings of the Town Council shall be set out in the printed agenda and shall include, but not be limited to the following items:

1. Call to order
2. Invocation
3. Salute to the flag
4. Roll call
5. Minutes
6. Adopt meeting agenda – Amendments/deletions to the agenda
7. Presentations
8. Petitioners
9. Approval of the Consent Agenda
10. Public Hearings
11. Ordinances
12. Resolutions
13. Unfinished Business

14. New Business
15. Council Comments
16. Mayor's Comments
17. Manager's Comments
18. Closed Session (as needed)
19. Adjournment

Section 5. Time Limits for Speakers

The chair shall, at the beginning of each meeting, have the authority to establish a time limit for petitioners of no less than three (3) minutes and no more than five (5) minutes, whether speaking as an individual or as representing any group or organization. Time allotted will be determined by the number of people who have signed up to speak. Any member of Council may appeal the ruling and overturn the time limit by a majority vote of the members present without debate.

This rule shall further apply to all meetings of committees, boards and commissions appointed by Council. Order of speakers will be determine on first register, first speak basis.

(Ord. No. 94-O-5, 2-22-94)

Section 6. Mayor and Council Comment

At each regular business meeting of the Town Council an item will be included on the agenda for "Council Comment" and "Mayor's Comments". At that time, the Mayor and Council members shall have up to five minutes to make comments of general interest on matters such as public issues, community events or milestones, or constituent concerns. With the consent of the Council, the Chair may delete or reduce the time for Comments in the event the time for the Council to conduct its business is constrained or the agenda is unusually lengthy.

Section 7. Unfinished Business Items

Unfinished Business shall include all business not concluded at the previous two regular business meetings. The Town Manager shall automatically place unfinished business items including postponed motions, under this agenda item.

(Ord. No. 83-O-41, §1, 12-14-83; Ord No. 95-O-5, §1, 2-28-95)

Section 8. New Business Items

New Business, not on the agenda, may be transacted during regular or special town council meetings if all members of town council present vote to consider new business by suspension of the rules.

Section 9. Application of Robert's Rules of Order

The provisions of Robert's Rules of Order, revised, edition date, shall govern the Council in its meetings, except in so far as such provisions are inconsistent with law and modified by the special rules of order as set forth below. In the event that there is an inconsistency between the respective rules of order, the special rules shall control.

Section 9.1. Special Rules of Order

- The Chair shall vote on all matters before Council unless contrary to law or the Chair abstains from the vote

- During Council meetings, Council deliberations will be held amongst Council members; unless the Chair consents and there are no objections to invite other participants.
- Rulings of the Chair may be overturned by a majority of the members present and voting.
- Any motion, amendment or resolution may be withdrawn or modified by the mover at any time before a decision, (with the concurrence of the seconder) of an amendment or ordering of the yeas and nays, except a motion to reconsider, which shall not be withdrawn without leave.
- The maker of the Motion shall be allowed to provide opening and closing discussion during debate.
- On the demand of any Member, before the question is put by the Chair, a question shall be divided, if it includes propositions so distinct in substance that, one being taken away, a substantive proposition shall remain.

Section 10. Committee of the Whole/Council Work Session

The council shall sit as a “committee of the whole” in a Council Work Session convening at 7:30 p.m. on the Monday preceding the regular council business meeting, with the Chair presiding at the Town Council Chambers. The committee of the whole may consider such business as may come before it, for study purposes only. The council members may review upcoming agenda items, hear staff reports and public comment and take other non-legislative action as it deems necessary. Complex or controversial land use items that have been placed on the Council’s agenda for public hearing will be scheduled for Council discussion at the next work session after Public Hearing. No formal action may be taken at the committee of the whole work session, except actions required for closed meetings/sessions which may be scheduled by the Town Manager when Regular Business Meeting agendas have numerous items and cannot accommodate a further item. The time and place may be changed by a two-thirds majority of the committee of the whole. Notification shall be in compliance with the Code of Virginia. (Ord. No. 99-O-36, §1, 12-14-99).

Section 11. Order of Business at Regular Committee of the Whole Work Sessions

The order of business at regular Committee of the Whole Work Sessions of the Town Council shall be set out in the printed agenda and shall include, but not be limited to, the following items:

1. Work session items for discussion
2. Additions to current Council meetings
3. Additions to future Council meetings
4. Information Memoranda in the pocket
5. Council Invitations

Section 12. Additions to Current Council Meetings

Council members, at this time may request items to be included in the next day’s regular business meeting. Items will only be added to the agenda if agreed to by a majority of Council present. As a guideline, additions to next-day meetings should be limited to items requiring minimal staff time and, as there would be limited time to inform constituents, items that are likely to be without controversy.

Section 13. Additions to Future Council Meetings

Other than in Section 12, agenda items to future Council meetings may be added in the following ways:

1. The Town Manager may add any items to business meetings or work sessions as previously directed by Council, that are of a legal nature, or that are required for normal town operations.
2. Any Council member may request an item be placed on an agenda of a future work session. The majority of Council shall rule whether the item will be added as (a) an information item, that is information provided to Council but not discussed at the meeting; (b) an item for discussion; or (c) an item for discussion with potential action the following day.
3. In addition, any Council member may request a motion or resolution moved directly to the next regular business meeting, bypassing a work session, as long as it requires no staff time other than the actual crafting of the motion or resolution.

Section 14. Quorum; procedure in absence of quorum

The majority of members of the council shall constitute a quorum. If a quorum fails to exist, the meeting shall stand adjourned to a time and place agreed upon by a majority of the members present. At the discretion of the presiding officer, the members present may conduct briefings at the Committee of the Whole Work Session (Adjourned to next regularly scheduled meeting). (Ord. No. 83-O-41, §1, 12-14-83).

Section 15. Journal of proceedings

The clerk shall keep a journal of the Council's proceedings. As a general practice, Council members shall be furnished with a copy of the minutes for action and approval prior to the next regular meeting. Council shall approve the minutes, which shall be signed by the person presiding when the previous meeting adjourned or, if he is not present, by the person presiding when presented. The name of each member voting and how he voted shall be recorded on the final vote on any ordinance or resolution. (Ord. No. 83-O-41, §1, 12-14-83).

PRESENTED: April 12, 2016

RESOLUTION NO. _____

ADOPTED _____

A RESOLUTION: AMENDING COUNCIL'S RULES OF ORDER AND PROCEDURE TO PERMIT CLOSED MEETINGS TO OCCUR DURING COMMITTEE OF THE WHOLE/COUNCIL WORK SESSIONS

WHEREAS, Section 10 of the Town Council's Rules of Order and Procedure states that, "[n]o formal action may be taken at the committee of the whole work session"; and

WHEREAS, when the Town Council's regular business meeting agendas contain numerous items, the Town Council desires the flexibility to hold closed meetings/sessions during its committee of the whole work sessions; and

WHEREAS, the Town Council desires to allow the Town Manager to schedule closed sessions during committee of the whole work sessions, in his discretion, and when the agendas of regular business meetings have numerous items scheduled.

THEREFORE, RESOLVED, the Council of the Town of Leesburg in Virginia amends its Rules of Order and Procedure to permit the holding of closed meetings/sessions during its Committee of the Whole/Council Work Sessions in the discretion of the Town Manager.

PASSED this _____ day of _____, 2016.

David S. Butler, Mayor
Town of Leesburg

ATTEST:

Clerk of Council