

1. 5:30 P.M. Rules Committee Agenda

Documents:

[12.1.16 COUNCIL RULES AD HOC COMMITTEE AGENDA.PDF](#)

2. 5:30 P.M. Rules Committee Meeting Minutes

Documents:

[11.28.16 COUNCIL RULES AD HOC COMMITTEE MEETING MINUTES.PDF](#)

3. 5:30 P.M. Draft Council Rules Update

Documents:

[DRAFT COUNCIL RULES UPDATE 12.1.16.PDF](#)

4. 12.1.16 Council Rules Meeting Corp Counsel 1

Documents:

[12.1.16 COUNCIL RULES MEETING CORP COUNSEL 1.PDF](#)

5. 12.1.16 Council Rules Meeting Corp Counsel 2

Documents:

[12.1.16 COUNCIL RULES MEETING CORP COUNSEL 2.PDF](#)



Council Rules Ad Hoc Committee

Ethan K. Strimling, Mayor (Chair)
Justin Costa, District 4 City Councilor

Nicholas M. Mavodones, At-Large City Councilor
Jill C. Duson, At-Large City Councilor

Thursday, December 1, 2016
5:30pm – 7:00pm
City Hall – Council Chamber

Agenda

1. Review Council rules and discuss possible changes



Council Rules Ad Hoc Committee

Ethan K. Strimling, Mayor (Chair)

Justin Costa, District 4 City Councilor

Nicholas M. Mavodones, At-Large City Councilor

Jill C. Duson, At-Large City Councilor

Monday, November 28, 2016

5:30pm – 7:00pm

City Hall – Room 209

Meeting Minutes & Notes

Attendance:

Mayor Ethan K. Strimling (Chair)

At-Large Councilor Nicholas M. Mavodones

At-Large Councilor Jill C. Duson

District 4 Councilor Justin Costa

District 1 Councilor Belinda Ray

District 2 Councilor Spencer Thibodeau

District 3 Councilor-elect Brian Batson

Anita LaChance, Deputy City Manager

Danielle West-Chuta, Corporation Counsel

Kathy Jones, City Clerk

Jason J. Shedlock, Special Assistant to the Mayor

Mayor Strimling called the meeting to order at 5:33pm. The Mayor stated that this meeting would be used to walk through the current Council rules in order to review what has worked well during the past year and what might need to be changed for the upcoming Council session.

- Councilor Duson stated that knowing who asked the questions and/or made each comment presented to the Committee would be helpful to understand the context of the question as well address any clarifying questions. Mayor Strimling stated that the suggestions were a compilation from his colleagues as well as from himself, and that he would endeavor to state who passed them along while each issue was discussed.
 - The idea of holding Council meetings outside of City Hall and in the community was discussed. While the charter states that regular meetings must be held at City Hall, there is no restriction on holding Council Workshops in the community. It was stated that issues such as parking, public transit accessibility and ADA accessibility must be taken into account if and when the Council sets a meeting outside of City Hall.
 - Regular Council meeting start times were discussed. After taking into consideration the schedules of the Councilors, allowing the public to both attend and setting aside an accessible
- 389 Congress Street/www.portlandmaiane.gov/tel.207-874-8941/tty.207-874-8936/fax.207-874-8669

time for public comment and ensuring a stable time for Councilors to eat supper, the Committee voted to suggest an alteration of the schedule:

- A motion was made (Costa) and seconded (Mavodones) to move the regular start time from 5:00pm to 5:30pm with public comment scheduled to move from 7:00pm to 6:00pm. The motion passed unanimously.
 - It is contemplated that the first part of the agenda can typically be completed in 30 minutes and that after the public comment, Councilors can take a 20-minute break to eat supper.
- A question was raised about the difference between a resolve and a proclamation. A resolve reflects the consensus of the Council on a particular issue, while a proclamation is an official announcement, often performed by the Mayor.
- Rule 12: “Items for Meetings; Filed When” was discussed. It was stated that following the current outlined timeline is important so that staff can prepare the materials and insert them into the meeting materials. It was stated that there must be clarity about the right of a Councilor to bring an item forward and place it on the agenda. Councilor Duson referred to an ordinance that clearly outlines this issue. A copy of the ordinance will be distributed at the next Committee meeting for review and discussion of if language should explicitly be included in the Council Rules.
- Corporation Counsel will clarify Rule 19: “Failure to Pass for Lack of Required Votes.” Questions were raised about when and how, depending on the number of Councilors present and voting, a motion would automatically appear on the immediately following Council agenda.
- A question was raised about the “Motion for Previous Question” (Rule 20) and what that means. It was stated that it is analogous to “calling the question” or “calling the vote.”
- A discussion ensued around Rule 22: “Length of Statements by Members.” It was clearly stated that an introduction should not count against the 10-minute rule for members to speak on each item. It was also stated that amendments are included in the definition of a singular item. Members who require more time can be granted additional time by the Council waving the rules and granting an extension.
- A discussion ensued around Rule 25: “Member Excused from Voting; When.” It was stated that the only reason for a member abstaining from a vote would be clear conflict of interest as described in statute. The Committee discussed whether the member leaving the dais was necessary, and the consensus was that remaining on the dais, or in the chamber, might still be viewed as attempting to influence the vote. While a rule change outlining the vacating of the chamber was not recommended, the Committee mentioned that there were mechanisms to stop the debate until a member agrees to vacate the chamber. It was also noted that this has never been an issue in the past and that the process as currently outlined is adequate.
- A discussion ensued about Rule 31: “Procedure for Addressing the Council,” specifically focusing on the presence of signs or demonstration in the chamber. It was stated that the chamber should be a place where anyone can feel comfortable sharing their views without fear of being intimidated or otherwise blocked from voicing their opinions. While free speech is respected and discussed, the ability to participate without demonstrations does adhere to free speech. The Committee stated that while there are no issues with the public wearing t-

shirts or buttons on their person, that signs cross the threshold into possible disruption and intimidation. The Committee voted to suggest an alteration of the current rule:

- A motion was made (Duson) and seconded (Costa) to limit signs in the chamber. The motion passed unanimously.
 - It was also stated that the new rules about public demonstration in the chamber be posted in conspicuous places so that attendees are aware of the Council rule.
- A question was raised about the departmental jurisdiction of each Council Committee. After a discussion about the intent and practical implications of clarifying departmental/Committee relationships, Deputy City Manager LaChance and Mayor Strimling committed to work together to ensure there is clarity on Committee missions and objectives.

The next scheduled meeting of the Council Rules Ad Hoc Committee is scheduled for Thursday, December 1st at 5:30 pm in the Council Chamber. After a motion (Duson) and a second (Costa), the Committee voted unanimously to adjourn at 7:24pm.

Respectfully submitted by Jason J. Shedlock, Special Assistant to the Mayor

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

RESOLUTION ADOPTING COUNCIL RULES FOR 2016-2017

BE IT RESOLVED, that the City Council of the City of Portland, Maine, in the City Council assembled, does hereby adopt the Rules and Orders of the City Council, as amended and attached hereto, as the Rules of Procedure of the City Council.

(DRAFT)

RULES OF PROCEDURE OF THE CITY COUNCIL

As Amended ~~December 7, 2015~~ December 5, 2016

Rule 1. Regular Meetings and Council Workshop Sessions

- A. The regular meetings of the Council shall be held in the room known as the City Council Chamber or such other room as deemed appropriate in City Hall in one session at 5:~~00~~
30 p.m. on the first and third Mondays of each calendar month. When said Monday is a holiday, an election day, or the first Monday in December, the regular meeting shall be held on the following Wednesday, at the same time and place. The date or the time of any regular meeting may be changed by an order passed at a previous meeting of the Council or by warrant for a special meeting called in lieu of a regular meeting; provided however, that said change in date will still provide for two regular meetings in one month. Unless otherwise changed by an order passed at a preceding meeting or by the calling of a special meeting at a different time or place, for like purposes, the Council shall also regularly meet at 12:00 noon on the first Monday of December of each year for the purpose of the inauguration of Portland City Council, the swearing in of Councilors-elect, filling Council committees, adopting rules and orders, and transacting such other business as it may deem appropriate. The public hearing of any item shall not commence after 10:00 p.m. of the day of said regular meeting unless five (5) members consent to such consideration. The Council deliberation and action on any item shall not commence after 10:00 p.m. of the day of said regular meeting unless five (5) members consent to such consideration.
- B. With proper notice, workshop sessions of the City Council may be called by five (5) members of the City Council, the

Mayor or the City Manager, as the case may be, for obtaining legal, administrative or policy guidance or for the presentation of information by the City Manager, the City Clerk or Corporation Counsel or their staff. The City Council shall not take votes in workshop sessions; however, the Council may be polled at the workshop to obtain an unofficial sense of the position of the Council on an issue being discussed at the workshop. To the maximum extent possible, materials for such sessions shall be provided to the City Council at least two (2) days prior to the scheduled workshop. All such workshop sessions shall be open to the public, in accordance with 1 M.R.S. §400 et seq. ("FOAA").

Rule 2. Quorum; Adjourned Meetings

A majority of the members shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time. At least twenty-four (24) hours' notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting from which adjournment is taken.

Rule 3. Enactments

The Council shall act only by ordinance, order, or resolve. Final passage of any item shall require five (5) affirmative votes except where a greater number is required by Charter or Ordinance. All ordinances, orders, and resolves, except orders and resolves making an appropriation of money, shall be confined to one subject, which shall be clearly expressed in the title. The appropriation order or resolve shall be confined to the subject of appropriations only.

Rule 4. Ordinance; Style

All ordinances passed by the Council shall be termed "amendments to the Portland City Code" and the enacting style shall be: "Be it ordained by the City Council of the City of Portland, Maine, in City Council assembled."

Rule 5. Order and Resolve; Style

In all votes of command, the form of expression shall be "ordered"; and of opinions, principles, facts or purposes, the form shall be "resolved".

Rule 6. Readings

The reading of any ordinance, order, or resolve shall be by title of the ordinance, order or resolve only, if no member objects.

Rule 7. Reading on Two Separate Days; Waiver

No ordinance, no appropriation resolve, and no order authorizing the expenditure of \$5,000.00 or more shall be passed until it has been read on two separate days, except when the requirement of reading on two separate days has been dispensed with by a vote of seven (7) of the members.

Rule 8. Yeas and Nays Taken; When

The yeas and nays shall be taken upon the passage of all ordinances and orders authorizing the expenditure of money in the amount of \$5,000.00 or more and upon any motion to adjourn and entered upon the record of the proceedings of the Council by the Clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member.

Rule 9. Ordinances; Effective When

No ordinance shall take effect until thirty (30) days after its passage by the Council, except in the case of emergency ordinances.

Rule 10. Order, Resolve; Effective When

No order or resolve shall take effect until ten (10) days after its passage, except in the case of emergency orders and resolves.

Rule 11. Emergency Ordinances, Orders and Resolves

The Council may, by vote of seven (7) of its members, pass emergency ordinances, orders, or resolves to take effect at the time indicated therein, but such emergency ordinances, orders or resolves shall contain a section in which the emergency is set forth and defined, provided, however, that the declaration of such emergency by the Council shall be conclusive.

Rule 12. Item for Meetings; Filed When

No ordinance, order, resolve, or other document shall be in order for action at any regular meeting of the Council unless such ordinance, order, resolve, or other document shall appear on the Council Agenda. Items for the Agenda shall be received in the office of the City Manager on or before close of the work day ten (10) days prior to the scheduled Council meeting.

Rule 13. Presiding Officer to Chair Meetings

The Presiding Officer shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called, and, a quorum being present, cause the minutes of the preceding meeting to be read and proceed to business.

Rule 14. Preserve Order Decide All Questions of Order

The Presiding Officer shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the Council by motion regularly seconded, and no other business shall be in order until the question on appeal is decided.

Rule 15. Declare Votes; Cause Return of Votes

The Presiding Officer shall declare all votes, but if any member doubts a vote, the Presiding Officer shall cause a return of the members voting in the affirmative and in the negative; without debate.

Rule 16. Debate; Rules of

When a question is under debate, the Presiding Officer shall receive no motion but to adjourn, or for the previous question, or to lay on the table, or to postpone to a day certain or to refer to a committee or some administrative official, or to amend, or to postpone indefinitely; which several motions shall have precedence in the order in which they stand arranged.

Rule 17. Motion to Adjourn; Lay on Table

The Presiding Officer shall consider a motion to adjourn as always in order except on immediate repetition; and that motion and the motion to lay on the table, or to take from the table, shall be decided without debate.

Rule 18. Reconsideration

When a vote is passed, it shall be in order for any member who voted in the majority, or in the negative on a tie vote to move a reconsideration thereof, at the time, or the next stated meeting, but not afterwards, and when a motion of reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for consideration at the next stated meeting unless an item to that effect is contained in the agenda for such next stated meeting or unless seven of the members consent to such reconsideration. A citizen petition, or zone change petition, once presented to and finally acted upon by the Council shall not again be received by the Council in the same or substantially the same form for a period of one year next succeeding the Council's final action on the original petition. A member voting with the majority on the original petition, shall be privileged to reintroduce such a petition.

A liquor license or special entertainment permit, or an amendment proposed by the licensee to an existing license or permit that has been denied by the Council shall not be received by the Council in the same or substantially the same form for one year from the date of such action unless a shorter period is required by state law.

Rule 19. Failure to Pass for Lack of Required Votes

When an item fails to finally pass for lack of the required five (5), or seven (7) affirmative votes, as applicable, and is not otherwise disposed of, the item shall appear on the Agenda as unfinished business at the next succeeding meeting.

Rule 20. Motion for Previous Question

Upon the motion for the previous question being made and seconded, the Presiding Officer shall put the question in the following form: "Shall the main question be now put?". And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the Council shall be forthwith taken upon all pending amendments and then upon the main question. Neither is it susceptible of amendment. All questions of order arising incidentally thereon must be decided without discussion whether appeal be had from the Presiding Officer or not.

Rule 21. Manner of Speaking

When a member is about to speak, he or she shall rise in his or her place and respectfully address the Presiding Officer, confine himself or herself to the question under debate, and avoid personalities.

Rule 22. Length of Statements by Members

During the deliberation on any item, each member shall limit his or her remarks and/or questions, to a total of ten (10) minutes.

Rule 23. Not to Interrupt

No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

Rule 24. Breach of Rules and Orders

When any member shall be guilty of a breach of any of the rules or orders of the Council, that member may, on motion, be required to make satisfaction therefor, and shall not be allowed to vote, or speak, except by way of excuse, until he or she has done so.

Rule 25. Member Excused From Voting; When

Every member present when a question is put shall vote unless the member is precluded from participation therein because of interest or the appearance of interest or unless she or he is otherwise prohibited by law from participation.

(a) Any member abstaining on grounds of interest or the appearance of interest must do so at the commencement of deliberations on the item under discussion and shall not participate in said deliberations or vote on such item.

(b) Any member abstaining as permitted hereunder shall clearly state such intent, the reason for such abstention and the legal or factual basis therefor prior to the commencement of deliberation on such item.

Rule 26. Motion to be Reduced to Writing; When

Any motion shall be reduced to writing if the Presiding Officer shall so direct.

Rule 27. Division of Question

Any member may require the division of a question when the sense will admit it.

Rule 28. Motion for Referral

A motion for referral to a Committee or administrative official, until it is decided, shall preclude all amendments of the main question.

Rule 29. Priority of Business

All questions relating to priority of business to be acted upon shall be decided without debate.

Rule 30. Suspension of Rules; Amendment or Repeal

The rules shall not be dispensed with or suspended unless two-thirds as of those present and voting consent thereto; provided, however, that when these rules expressly require a vote larger than said two-thirds such rules shall not be suspended except by an equal or greater vote. No rule of procedure shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Rule 31. Procedure for Addressing Council

Any person wishing to address the Council will be given an opportunity to do so in accordance with the following procedure:

1. No public comment shall be permitted on the following agenda items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior action of the Council where that prior action had permitted public comment.

2. On items other than those set forth in 1. above, public comment shall be permitted only once prior to final Council action. Except as specifically decided by the Council, such public comment shall occur at the advertised public hearing or at the second reading of such item by the Council, where the item requires a second reading on a separate date.

3. Persons wishing to address the Council on an item which appears on the agenda, and upon which public comment is permitted under 1. and 2. above, shall wait until the Clerk announces the consideration of such item, at which time they may address the Council on that particular item. However, once the Council has begun its deliberations on an item, no person shall be permitted to address the Council on such item.

4. Persons wishing to address the Council on an item not appearing on the agenda shall only do so at the 7:00 p.m. public comment period reserved on the City Council agenda for non-agenda items.

5. Any person wishing to address the Council shall signify such desire and, when recognized by the Presiding Officer, such person shall give his or her name and address and designate the subject matter on which he or she desires to address the Council.

6. When any person or entity is being honored or recognized by the Council, applause shall be permitted. In all other matters, persons present at Council meetings shall not interrupt, nor applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting.

7. Any and all signs shall not be permitted in the City Council Chambers.

78. Persons addressing the Council on an item prior to start of deliberation on such item by the Council shall be permitted to speak only once on an item, and shall limit their remarks on each item to three (3) minutes. Such persons shall confine their remarks to the merits of the pending item. No members of the public shall comment on more than three (3) items at any Council meeting unless the Rules of the Council are suspended to allow for comment on each such additional item.

89. The Presiding Officer may limit or cut off any commentary that is not germane or that is scurrilous, abusive, or not in accord with good order and decorum.

910. Any person who shall continue to violate these rules, after warning by the Presiding Officer, may be ejected for the remainder of the meeting then in progress.

Rule 32. Parliamentary Proceedings

In all cases where the parliamentary proceedings are not determined by the foregoing rules, "Robert's Rules" shall be taken as authority to decide the course of the proceedings.

Rule 33. Council Committees

At the commencement of the municipal year, or as soon thereafter as possible, members shall be appointed to the following standing Committees, each Committee to consist of three (3) members of the Council except for the Housing Committee which shall have five (5) members:

1. Economic Development Committee;
2. Finance Committee;
3. Health and Human Services Committee;
4. Housing Committee;
5. Legislative/Nominating Committee; and
6. Sustainability and ~~Energy~~ Transportation Committee.

A majority of the members of the above standing Committees shall constitute a quorum for the transaction of business.

Rule 34. Council Committees; How Chosen

The members of the Council to serve on the above Committees shall be appointed by the Mayor. The Council may override one or more of such appointments by a vote of at least six (6) members.

Rule 35. Council Committees; Public Comment

The public will be given an opportunity to comment on any item under consideration by the below-named standing Council Committees prior to a final Committee action on that item. Any person addressing the Committee on an item shall be permitted to speak only once on an item, shall give his or her name and address, and shall limit their remarks on each item to three (3) minutes. This requirement for public comment shall apply to the following Committees:

1. Economic Development Committee;

2. Finance Committee;
3. Health and Human Services Committee;
4. Housing Committee;
5. Legislative/Nominating Committee; and
6. Sustainability and ~~Energy~~ Transportation Committee.

Nothing herein shall prevent or prohibit any other Committee from accepting public comment if said Committee determines that it wishes to do so.

Notwithstanding the foregoing, no public comment shall be required on the following items: informational reports or communications from boards and commissions, staff or other organizations or entities; and administrative action implementing prior Committee action where that prior action had permitted public comment.

Rule 36. Smoking at Meetings

No person shall smoke in the Council Chamber or at any public meeting in the Portland City Hall. Any person continuing to smoke after warning by the Presiding Officer shall be ejected for the remainder of the meeting then in progress.

Rule 37. Confidentiality

No Councilor shall intentionally disclose or discuss information known to be confidential to or with any person not otherwise authorized or privileged to receive that information, including representatives of the media. For the purpose of this rule, "information known to be confidential" includes information in any form that has been designated, to the knowledge of the Councilor, as confidential by an employee or agent of the City of Portland, and that is within one or more of the exceptions to the definition of "public record" in the State's Freedom of Access law.

Confidential information includes statements made by individuals participating in executive sessions and includes any documents prepared specifically for an executive session, unless otherwise designated by the City Council in cases where the Council has the exclusive right to waive confidentiality.

Any Councilor who, following a due process hearing, is found to have violated this rule may be disciplined by reprimand.

Fwd: Council Rules Meeting Follow-up

Danielle West-Chuhta <dwchuhta@portlandmaine.gov>
To: Jason Shedlock <jshedlock@portlandmaine.gov>

Wed, Nov 30, 2016 at 10:27 AM

FYI.

—— Forwarded message ——

From: **Danielle West-Chuhta** <dwchuhta@portlandmaine.gov>
Date: Tue, Nov 29, 2016 at 3:39 PM
Subject: Council Rules Meeting Follow-up
To: Ethan Strimling <estrimling@portlandmaine.gov>

Mr. Mayor:

I know that you are working on discussing the Committee descriptions with Anita, and Kathy said that she would have the resolve available for the next meeting; and I am currently working on the agreed-upon Council Rule amendments from last night, but I was thinking a bit more last night about the Council agenda/schedule and it might make sense for the schedule to be as follows:

Dinner: 5:00-5:30 (in Room 209) (You can eat whenever you arrive until 5:30);
Meeting Start time: 5:30 (Try to get Proclamations, Arts in the Chambers, Resolutions, Communications and Licenses done);
Public Comment (on Non-Agenda Items): 6:00;
Continue on With Agenda Items (Old Business/Orders/New Business/Etc.).

Even though the schedule is not in the Council Rules, I thought it might be good for you all to agree on how dinner would be handled moving forward.

Thanks,

Danielle

—

Danielle P. West-Chuhta
Corporation Counsel
City of Portland, Maine
(207) 874.8480
dwchuhta@portlandmaine.gov

—

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Fwd: Council Rules Follow-up

Danielle West-Chuhta <dwchuhta@portlandmaine.gov>
To: Jason Shedlock <jshedlock@portlandmaine.gov>

Wed, Nov 30, 2016 at 10:26 AM

FYI.

—— Forwarded message ——

From: **Danielle West-Chuhta** <dwchuhta@portlandmaine.gov>
Date: Wed, Nov 30, 2016 at 10:16 AM
Subject: Council Rules Follow-up
To: Ethan Strimling <estrimling@portlandmaine.gov>

Mr. Mayor:

We just finished drafting the amendments (so far) to the Council Rules. Nancy will send them later. In addition to my comments on the schedule (for the meetings) that I already sent to you (and the City Council Resolution re: Rule 12 that Kathy will be providing on Thursday night), as requested, I have reviewed the legal memos that have been drafted by Corporation Counsel (over the past 20 plus years) regarding Rule 19 (Failure to Pass for Lack of Required Votes). I could not find a memo, however, regarding this Rule. Therefore, since it seems that this Rule can be read in two ways, it may make sense to amend/clarify the language. One possible way to do this would be to amend/clarify as follows (please feel free to share this e-mail with the Committee as well):

Rule 19. Failure to Pass for Lack of Required Votes

When an item fails to finally pass for lack of the required five (5), or seven (7) affirmative votes, as applicable, it shall be considered indefinitely postponed unless and is not otherwise disposed of, the item shall appear on the Agenda as unfinished business at the next succeeding meeting.

Thanks,

Danielle

—

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