



*Nicholas M. Mavodones, At-Large City Councilor(Chair)*

*Kate M. Snyder, Mayor*

*Kimberly Cook, District 5 City Councilor*

## **Rules and Reports Committee**

**Monday, January 27, 2020**

**TIME 4:00 P.M**

**LOCATION: ROOM 209**

### **AGENDA**

1. Call to Order
  
2. APPROVAL OF MINUTES OF PREVIOUS MEETING:  
*Approval of the January 3, 2020 Draft Rules and Reports Committee meeting.*
  - a. Approval of the Draft Rules and Report Committee meeting minutes
  
3. Review Draft Council Rules, Discuss Possible Changes and Final Vote to recommend to the City Council.
  - a. Draft 2020 City Council Rules
  
4. Discussion of City Clerk, City Manager and Corporation Counsel Evaluation Process
  - a. Potential Executive Session to discuss the City Clerk, Corporation Counsel and City Manager's evaluations pursuant to 1 M.R.S Section 405(6)(A)
  
5. Determine Date/Time of Next Meeting and Adjourn

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City of Portland Commissions are not required to take public comment under FOAA and our Ordinance is silent regarding the duties of the Commission. The Commission has the discretion to not allow or allow public comment during its meetings, including the authority to limit the duration of comments. Since the Commission makes recommendations to the City Council, public comment is available at that level.



*Nicholas M. Mavodones, At-Large City Councilor(Chair)*

*Kate M. Snyder, Mayor*

*Kimberly Cook, District 5 City Councilor*

## **Rules and Reports Committee**

**Friday, January 3, 2020**

**TIME : 10:30 A.M**

**LOCATION: ROOM 209**

**MINUTES**

**1. Call to Order**

Councilor Mavodones, Chair of the Rule and Reports Committee called the meeting to order at 10:35. (Councilor Cook, Mayor Snyder, Corporation Counsel, Danielle West-Chuhta, City Clerk, Katherine Jones, Human Resources Director, Gina Tapp and Member of the Public, George Rheault were present.)

Councilor Mavodones asked Human Resource Director, Gina Tapp, to give an overview of the evaluation process for the City Manager, Corporation Counsel and the City Clerk. Gina stated that she would get packets to the new committee members. Gina stated that the Council would have their packets for the next Rules and Report meeting, January 27, 2020.

Councilor Cook asked Gina Tapp for a memo laying out the timeline for the evaluation process to the full council to invite feedback.

At the January 27, 2020 at 4:00 P.M. the agenda will have the appropriate citation for an Executive Session.

**2. Approval of minutes of previous meeting**

**3. Public Comment on Council Rules**

Member of the public George Rheault spoke on Rule #32- rules on decorum. Geroge also asked for something to be put in the rules regarding the sale of City Owned Property having a more exclusive process.

**a. Approval of May 20, 2019 Minutes**

Motion was made by Councilor Cook and seconded by Councilor Snyder to approve the minutes of May 20, 2019. Passage 3-0.

**4. Review of Council Rules**

**a. Rules of Procedures 2019-2020**

Councilor Maovodones asked if the Committee wanted to go through the rules one at a time, or did the Committee just want to point out changes that they would like to make. They decided to go rule by rule.

Rule 22. adding after the word a " regular" and deleting the word "council".

Rule 29 adding after the word item "before the Council".

Mayor Snyder will discuss with City Manager sections of Rule 32;

Section (4). Persons wishing to address the City Council on any non-agenda item. Moving this to the end of the regular or special city council meeting and possibly having public comment only once a month, having the Mayor and City Manager pick which meeting by the number of articles on the agenda. Limiting public comment to items not on the Agenda or on Council Committee agendas.

8. Persons addressing the Council limited to three minutes, unless the individual needs an interpreter allowing them more time.

Rule 34. Council Committees

Councilor Cook asked that we add another committee -Re-Code Ad Hoc committee. We will then have to revise the vote on the order.

**5. Adjourn**

Motion was made by Councilor Cook and seconded by Mayor Snyder to adjourn. Passage 3-0, 12:30 P.M.

A TRUE RECORD

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Katherine L. Jones, City Clerk.

**RULES OF PROCEDURE OF THE CITY COUNCIL**

As Amended ~~February 19~~~~December 32,~~ 20182020

**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 5:30 p.m. on the first and third Mondays of each calendar month. When said Monday is a holiday or an election day, 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) business 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 or amendments to 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 \$50,000.00 or more shall be passed until it has been read on two (2) separate days, except when the requirement of reading on two (2) 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 \$50,000.00 or more 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**

- A. 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 (hereinafter "Agenda").
- B. Items for the Agenda should to the maximum extent possible 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.
- C. Each item for the Agenda shall be submitted with an electronic agenda request form. The form shall have a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy.
- D. If a submitted item for the Agenda involves an ordinance amendment, City Charter amendment or revision, an order authorizing the expenditure of \$50,000 or more, or a budget order, such item shall be first reviewed by a Council Committee before it appears on the Agenda. The Committee assigned to review a referral item shall be agreed to be the City Manager and the Mayor after taking into account, among

other things, the information in the submitted agenda request form. All items that are referred to a Committee through this process shall be communicated to the Council by including a written communication from the Mayor on the Agenda. If the City Manager and the Mayor disagree on which Committee to refer the item to, or on whether an item should first go to a Committee at all, the item in question shall appear on the Agenda for a formal vote to either suspend these rules to take up the item or refer the item as per Rule 29. All licenses, proclamations, resolutions, festival orders, grant approvals or appropriations, and communications shall appear on the Agenda without the need for the aforementioned referral to a Committee.

**Rule 13. Sponsorship.**

Items listed on the Council agenda shall be sponsored as follows:

- A. The Mayor or any individual member of the Council ~~may shall~~ sponsor ~~any~~ proclamations or resolutions; and
- B. The City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council ~~may shall~~ sponsor any orders or other Agenda items.

**Rule 14. 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 15. 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 16. 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 17. 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 date 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 18. 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 19. 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 (7) 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 (1) year next succeeding the Council's final action on the original petition. A member voting with the majority on the original petition, however, shall be privileged to reintroduce such a petition in accordance with the requirements of this rule.

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 (1) year from the date of such action unless a shorter period is required by state law.

All other items, once presented to and finally acted upon by the Council, shall not again be offered or received by the Council in the same or substantially the same form within a given Council year (i.e. December - December).

**Rule 20. 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 21. 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 22. Manner of Speaking**

When a member is about to speak at a regular or special Council meeting, he or she shall rise in his or her place, if physically able to do so, and respectfully address the Presiding Officer, confine himself or herself to the question under debate, and avoid personalities.

**Rule 23. Length of Statements by Members**

During the deliberation on any item and associated amendments, each member shall limit his or her remarks and/or questions, but not including responses to his or her questions, to a total of ten (10) minutes. In the event that an item is divided, each member shall be entitled to an additional five (5) minutes of remarks and/or questions.

**Rule 24. Not to Interrupt**

No member speaking shall be interrupted by another, but by a call to order by the Presiding Officer, a point of order by any member or to correct a mistake.

**Rule 25. 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 26. 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 27. Motion to be Reduced to Writing; When**

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

**Rule 28. Division of a Question**

Any member may move that a question be divided.

**Rule 29. Motion for Referral**

Any member of the Council may~~ean~~ make a motion for referral of an item before the Council to a Committee or administrative official. A motion for referral to a Committee or administrative official, until it is decided, shall preclude all amendments of the main question.

**Rule 30. Priority of Business**

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

**Rule 31. 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 32. 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, s~~Such public comment shall occur at the advertised public hearing or at the second reading of ~~the such~~ item by the Council, ~~where the item requires a second reading on a separate date.~~ Public comment shall occur at the first reading if the item in question did not have a hearing before a Council standing committee, involves a proposed ordinance or ordinance amendment, or is previously or currently pending before the Planning Board.

3. Persons wishing to address the Council on an item which appears on the Aagenda, 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 Council or a standing committee agenda shall only do so at the ~~6:00 p.m.~~ public comment period reserved on the ~~Council~~ Aagenda for non-agenda items. This comment period shall always be scheduled to occur at the conclusion of all of the Council's regular business items including, but not limited to, any item scheduled for a second reading and/or public hearing.

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/or organization or individual represented, if any, designate the subject matter on which he or she desires to address the Council, respectfully address only the Presiding Officer, and avoid personalities.

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 Council Chambers.

8. Persons addressing the Council on an Agenda item must do so prior to start of deliberation on such item by the Council, shall be permitted to speak only once on an Agenda item, and shall limit their remarks on each Agenda item or non-agenda item to three (3) minutes. From time to time, the Presiding Officer may grant an extension of this three (3) minute requirement. Such persons shall also confine their remarks to the merits of the pending Agenda item. No members of the public shall comment on more than three (3) items, excluding any comment provided pursuant to number 4 above, at any Council meeting unless the Rules of the Council are suspended to allow for comment on each such additional item.

9. 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.

10. 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 33. Parliamentary Proceedings**

In all cases where the parliamentary proceedings are not determined by the foregoing rules, "Robert's Rules of Order" (Newly Revised, 11<sup>th</sup> Edition) shall be taken as authority to decide the course of the proceedings.

A list of debatable and non-debatable motions is hereby incorporated for reference in Appendix A, attached hereto.

**Rule 34. Council Committees**

At the commencement of the municipal year members shall be appointed by the Mayor to the following standing Committees, each Committee to consist of three (3) members of Council, except the Economic Development Committee, which shall have four (4) voting members, and the Finance Committee, which shall have four (4) members including the Mayor as an ex-officio member, to consist of three (3) members of the Council:

1. Economic Development Committee;
2. Finance Committee;
3. Health and Human Services and Public Safety Committee;
4. Housing Committee;
5. Legislative/Nominating Committee;
6. Rules and Reports Committee; ~~and~~
7. Sustainability and Transportation Committee; and
8. Recode Committee.

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

**Rule 36. 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 36. 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/or organization or individual represented, if any, and shall limit their remarks on each item to three (3) minutes. From time to time, the Presiding Officer of a Committee may extend this period of time pursuant to Rule 31(8). These requirements for public comment shall apply to the following Committees:

1. Economic Development Committee;
2. Finance Committee;
3. Health and Human Services and Public Safety Committee;
4. Housing Committee;
5. Legislative/Nominating Committee;
6. Rules and Reports Committee; ~~and~~
7. Sustainability and Transportation Committee; and
8. Recode 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 37. Smoking at Meetings**

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

**Rule 38. 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.