

## RESOLUTION No. 809

### Rules of the Stayton City Council

WHEREAS, Section 13. of the Charter of the City of Stayton requires that the City Council adopt rules for the government of its members and proceedings;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Stayton hereby adopts rules and procedures for the conduct of the Mayor and City Council members and their proceedings as follows:

#### SECTION 1. MEETINGS

- A. Regular Meetings: The City Council shall meet in regular session on the first and third Monday of each month at the Stayton Community Center or other specified location within the City. All regular meetings will begin at 7:00 p.m. unless another time is designated. In the event that the regular session of the City Council falls on a holiday, the meeting shall be held the following day.

If it is known at least one regular meeting in advance that neither the Mayor nor the Council President will be available to preside over a regular City Council meeting, at such prior meeting the City Council may, by majority vote of those Councilors present, select a mutually convenient alternate date which follows, but is as close as possible to, the actual date the meeting would otherwise be held. This paragraph shall not be applicable if time does not permit necessary advance public notice to reschedule any land use hearings that may already be scheduled for the regular meeting date. In such a case an alternate presiding officer shall be selected as outlined in Section 4 of these Rules.

Whether due to lack of substantial business, hazardous weather conditions or other legitimate reasons, upon the recommendation of the City Administrator, a regular meeting may be cancelled by the presiding officer (Mayor or Council President) or by an affirmative polling of three or more members of the City Council. Notice of such cancellation shall be provided in the same manner in which the meeting was originally noticed.

- B. Special Meetings: Special meetings of the City Council shall be held when called by the Mayor or when three City Councilors request that the Mayor call a special meeting. Notice of special meetings, including the subject, time, and place of the meeting shall be given to all Councilors then in the City. Public notice of special meetings shall be given to the news media and interested persons and posted at Stayton City Hall twenty-four (24) hours prior to the meeting. In case of an actual emergency, a special meeting may be called and public notice given three (3) hours prior to the meeting.

- C. Work Sessions: Special meetings may be held as work sessions of the City Council to give the Council members an opportunity to discuss issues in an informal discussion setting. No motions shall be made at a work session. Decisions on items considered at a work session must be made at a regular or special Council meeting.
- D. Executive Sessions: Under ORS 192.660 executive sessions of the City Council are permitted on certain matters to give the Council members an opportunity to discuss issues in a closed discussion setting. No motions shall be made at an executive session. Decisions on items considered at an executive session must be made at a regular or special Council meeting. Executive Sessions may be called, either as part of a regular meeting or as a separate meeting, by the Mayor, with a consensus of Councilors, or by mutual concurrence of the City Administrator and City Attorney in the furtherance of the City's business. Executive session may be held only for the following reasons (ORS 192.660 subsections in parentheses):
- (1) To consider the employment of a public officer, employee, staff member or individual agent. (2)(a).
  - (2) To consider dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, unless such public officer, employee, staff member or individual agent requests an open hearing. (2)(b).
  - (3) To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (2)(d).
  - (4) To conduct deliberations with persons designated by the governing body to negotiate real property transactions. (2)(e).
  - (5) To consider records that are exempt by law from public inspection. (2)(f).
  - (6) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations. (2)(g).
  - (7) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. (2)(h).
  - (8) To review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an

open hearing. (2)(i).

(9) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments. (2)(j).

## **SECTION 2. OPEN MEETINGS LAW**

The City Council concurs that an informed public, aware of the deliberations and decisions of the City of Stayton, is of utmost importance to the community. In recognition of this policy, the Council shall comply with the Oregon Open Meetings Law, ORS 192.610 to 192.710.

## **SECTION 3. CONDUCT OF MEETINGS**

The presiding officer shall conduct meetings in accordance with these Rules of Council and the Charter of the City of Stayton. All parliamentary questions which arise, not otherwise provided for, shall be governed by Roberts Rules of Order.

Whenever the presiding officer shall call for a polling of the members of the City Council, the order of polling shall be a random order determined by the individual recording the poll.

## **SECTION 4. QUORUM**

Three members of the City Council shall constitute a quorum. A quorum of the Council is necessary for all Council meetings (e.g. Regular and Special meetings and Executive Sessions), except informational Work Sessions. If a quorum is not present, the City Administrator shall immediately inform the absent members, except those known to be unavailable for the meeting, that their presence is required to enable the City Council to proceed. If the absent member or members do not appear after the notice, the Councilors present shall adjourn until a specific time and place or until the next regular meeting. In the absence of the Mayor and Council President, the remaining members shall collectively call the meeting to order and elect a presiding officer who shall conduct the meeting.

## **SECTION 5. AGENDA**

The City Administrator shall determine the subject matter and prepare an agenda of the business to be presented at a regular Council meeting. The City Council shall consider at the regular meeting only matters that appear on the agenda for that meeting and those additional issues that are introduced by the Mayor, a Councilor, or the City Administrator at the appropriate place in the Order of Business at the meeting. Members of the Stayton City Council are encouraged to provide the City Administrator, in advance of a meeting

and prior to distribution of the meeting's agenda, those issues intended to be raised at that meeting, to be added to the printed agenda.

No item of business may be added to the agenda of a special meeting unless it is added twenty-four (24) hours prior to the meeting with the approval of the Mayor and notice of the new agenda item is given to the public and the news media as required under Section 1. of these rules.

## **SECTION 6. CONSENT AGENDA**

In order to make more efficient use of meeting time, resolutions, requests of minute approval and other items which are routine in nature and for which no debate is expected, shall be placed on a "consent agenda." Any item placed on the consent agenda shall be removed at the request of the Mayor or any Council member prior to the time a vote is taken on the consent agenda items.

All remaining items on the consent agenda shall be disposed of in a single motion "to adopt the consent agenda" which shall not be debatable. Adoption of the consent agenda shall be by a roll call vote of all Councilors present. If there are dissenting votes, each item on the consent agenda shall be voted upon separately by a roll call vote.

## **SECTION 7. ORDER OF BUSINESS**

A. Regular Council Meetings: The order of business at regular Council meetings shall be as follows:

- Call to Order
- Flag Salute
- Roll Call/Staff Introductions
- Announcements
- Presentations/Comments from the Public  
(Recommended time for Presentations is 10 minutes. Recommended time for Comments from the Public is 3 minutes).
- Consent Agenda
- Public Hearings
- Unfinished Business
- New Business
- Staff/Commission Reports
- Presentations/Comments from the Public  
(Recommended time for Presentations is 10 minutes. Recommended time for Comments from the public is 3 minutes).
- Business from the Administrator
- Business from the Mayor
- Business from the Council

- Future Agenda Items
- Executive Session (if scheduled)
- Executive Session Final Action (if necessary)
- Adjournment

B. Public Hearings - General Matters: The Council may hold public hearings as part of any meeting when it desires to obtain testimony from the public on any question before the Council. When hearings are held as part of a regularly scheduled Council meeting, the public hearing shall be noticed for 7:00 p.m. and proceed promptly when the "Public Hearings" segment of the Order of Business is reached.

The order of business for all public hearings of a general nature shall be as follows:

1. Call to Order
2. Staff Report
3. Proponents (if applicable)
4. Opponents (if applicable)
5. General Testimony
6. Questions
7. Close of the Hearing
8. Deliberation and Decision on the Issue

Public Hearings – Land Use Issues: The order of business of public hearings concerning land use issues shall follow the "City of Stayton Rules of Procedure for Public Hearings on Land Use Issues" as adopted by the Council on February 20, 2007, and as may be hereafter amended from time to time.

C. Public Testimony: The following rules shall govern general testimony provided to the City Council:

1. Identification of Persons Testifying: Any person appearing before the City shall state his name, give his address, and representative capacity, if any, for the record. Any person submitting written testimony shall sign and date the testimony and provide his/her address.
2. Representation of Applicants: Any applicant shall appear either in person or through a representative at the hearing. Corporations, including governmental bodies, must appear through an attorney (ORS 9.320).
3. Time Limitations: Applicants shall limit presentations on an application to a maximum of ten (10) minutes. All other persons shall limit testimony to three (3) minutes per person. The presiding officer may modify the time limits.

4. Repetitive or Irrelevant Testimony: The presiding officer may limit testimony when it is cumulative, repetitive, irrelevant, or immaterial to the issue being considered.

## SECTION 8. VOTING

A majority of the Councilors present at a meeting shall be necessary to decide any question before the Council. A Council member may vote on any question when serving as presiding officer in the absence of the Mayor, but may not exercise the veto authority of the Mayor.

## SECTION 9. ETHICAL CONSIDERATIONS AND DECLARATIONS

(All declarations shall be made publicly at the commencement of the proceedings)

### A. Conflict of Interest.

Oregon Government Standards and Practices laws define **actual** conflict of interest [ORS 244.020(1)] and **potential** conflict of interest [ORS 244.020(7)]. The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “would” and “could.” An **actual** conflict of interest occurs when an official action to be taken would be reasonably certain to result in a financial benefit or detriment. It will occur when an action taken by the official **would** directly and specifically affect the financial interest of the official, the official’s relative or a business with which the official or a relative of the official is associated. A **potential** conflict of interest exists when an official takes action that could possibly have a financial impact on that official, a relative of that official or a business with which the official or the relative of that official is associated. Such impact is not certain.

When met with a **potential** conflict of interest, the Mayor or a Councilor must declare the potential conflict and publicly announce the nature of the potential conflict of interest prior to taking any official action, such as discussing, making a motion or voting on the issue giving rise to the conflict.

When met with an **actual** conflict of interest, the Mayor or a Councilor must declare the actual conflict and publicly announce the nature of the actual conflict. The Mayor or a councilor must then refrain from taking **any** official action, such as discussing, making or motion or voting on the issue giving rise to the conflict.

If the vote of a councilor with an **actual** conflict of interest is required in order to obtain the minimum number of votes required for the council to take action, the councilor may vote but may not discuss or otherwise take official action on the matter giving rise to the conflict.

## **B. Ex Parte Contact or Communication.**

Definition: Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, any person adversely interested. (*Black's Law Dictionary*).

When the Council sits as a decision making tribunal, the Mayor and the Councilors must participate in a very public way. This means that if an official has information gathered from only one source and outside of the formal hearing process, such communication is considered "Ex Parte Contact/Communication" and must be publicly disclosed to accommodate those who might disagree with the communication by affording an opportunity to respond. The disclosure must take place prior to the commencement of the public proceedings. Once the declaration is made the official proceeds to participate in the proceedings.

The law does not disallow Ex Parte Contact/Communication; the public official just needs to disclose, "on the record," the substance of that contact/conversation to allow those who were not a party to it a chance to rebut.

The necessity of disclosure of an Ex Parte Contact/Communication includes "site visits" and "charrette meetings" [Informal sessions typically dealing with future planning items. Charrette meetings should be avoided].

## **C. Bias.**

Definition: Inclination; bent; prepossession; preconceived opinion; a predisposition to decide a cause or an issue in a certain way, which does not leave the mind perfectly open to conviction. **Actual** bias is a state of mind where the public official acting as a decision maker cannot entertain the issue(s) impartially and without prejudice to the substantial rights of the parties involved. (*Black's Law Dictionary*).

Unless there is **actual** bias, the public official decision maker can and should declare the bias, if any, in the public forum in order that the participating decision makers and the public are made aware thereof. Once the declaration of bias is made, the official may proceed to participate in the proceedings. Caution: It is up to the public official to determine whether there is **actual** bias; if so, that individual is precluded from participating in the proceedings.

## **D. Guideline.**

The declarations shall contain a statement of the bias or the content of any interest or contact encountered including who was involved, the time of discovery or happening, and the result, if any, of the interest. The public official shall declare whether or not an

impartial decision on the issue can be made. The Mayor or the presiding officer may allow an opportunity for a rebuttal to the declaration.

## **SECTION 10. DECORUM**

Except by permission of the presiding officer, a Councilor shall address any remarks to the City Council and not to the audience. Upon recognition and permission of the presiding officer, a person in the audience may address the City Council relative to any matter being considered by the City Council at that time. Any person speaking in a Council meeting shall state his or her name and address, limit comments to the issue under discussion, limit remarks to five minutes, and be courteous to the City Council, staff, and audience.

## **SECTION 11. ORDINANCE ADOPTION**

Ordinances shall be adopted using the following procedures:

- A. Public Notice: The City Administrator will notify the press and the public of proposed ordinances seven (7) days prior to the first reading of the ordinance. This shall effectively be accomplished by making a copy of the proposed ordinance available at City Hall for public inspection.
- B. First Reading: Prior to the first reading of an ordinance, the Council will consider the proposed ordinance, a staff report, and may call for public testimony. By motion, the Council shall direct that the ordinance be read for a first reading. Following the first reading the Council shall, by motion, either approve, modify, or disapprove the ordinance as read.
- C. Second Reading: Prior to the second reading of an ordinance, the City Administrator or designee shall read any amendments to the ordinance in full and shall incorporate the amendments into a written copy of the ordinance after adoption. By motion, the Council shall direct that the ordinance be read for a second reading.
- D. Final Enactment: Following the second reading of an ordinance, the Council shall approve the ordinance as read and direct the Mayor to execute the ordinance as enacted.
- E. Readings by Title Only: Any reading of an ordinance may be by title only if:
  1. The Council unanimously votes that the reading be by title only; or



2. The City Administrator completes all of the following prior to the first reading of the ordinance:
  - a. Provides each Council member with a copy of the ordinance in the Council meeting packet at least three calendar days prior to the first reading; and
  - b. A copy of the proposed ordinance is provided for Council and public inspection at City Hall at least one week prior to the first reading; and
  - c. Written notice of the availability of the ordinance is posted at City Hall and two other public places in the City at least one week prior to the first reading.

F. Two Meeting Consideration: All ordinances will normally be considered at two regularly scheduled meetings of the City Council. Single meeting adoption of an ordinance is permissible if both readings of the ordinance are unanimously approved by all Council members present at the meeting.

G. Veto of an Ordinance: The Mayor may veto an ordinance passed by the Council within seven (7) days of the date of adoption. The Mayor shall state the reasons for a veto in writing at the time of the exercise of the veto, and in advance of the Council's next regularly scheduled meeting, affording Councilors time to consider any action and shall return the ordinance to the Council for consideration at the next meeting.

H. Override of a Veto: At the meeting following a Mayoral veto, the Council may, by majority vote of the Council members present at the meeting, override a Mayoral veto by repassing the ordinance.

## **SECTION 12. ORDINANCE RECORDING**

All ordinances adopted by the City Council shall be executed by the Mayor and the City Administrator within seven (7) days of adoption by the City Council and shall then be filed in City Hall.

## **SECTION 13. MAYOR'S DUTIES**

The Mayor shall have the following duties and responsibilities:

- A. The Mayor shall serve as the presiding officer at all meetings of the City Council;

- B. The Mayor shall have the authority to preserve order, enforce the rules of the Council, and determine the order of business at all meetings;
- C. The Mayor shall not have a vote on questions before the City Council unless a tie vote occurs;
- D. The Mayor shall not have the power to veto any actions passed by the City Council except ordinances;
- E. The Mayor shall sign all bonds, resolutions, ordinances, agreements, real property deeds, contracts or other documents of the City which implement actions of the Council and require execution by the highest elected official.
- F. In the absence of the City Administrator or the Finance Director, the Mayor is authorized to co-sign checks, orders or financial obligations of the City.
- G. The Mayor shall be the Council's liaison with the City Attorney.

**SECTION 14. PRESIDENT OF THE COUNCIL**

A President of the Council shall be elected by the City Council at its first regularly scheduled meeting of each calendar year. The President of the Council shall preside over all Council meetings in the absence of the Mayor. The President of the Council shall serve as acting Mayor whenever the Mayor is unable to perform the duties of the office and shall have the powers of the Mayor while acting in that capacity.

**SECTION 15. APPOINTMENTS**

- A. In the event of a vacancy of an elected position on the City Council, the Mayor shall appoint a person to fill the vacancy. This may include using the following "Process For Elective Position Appointment", through which the Council shall consider ratification of the appointment.

**PROCESS FOR ELECTIVE POSITION APPOINTMENT**

1. Publish request for Applications in mediums of general circulation such as newspapers, broadcast on public access, prepare announcements and post at locations of meeting notice; send announcements to all current committee, commission, board and task force members or community involvement participants; send announcements to previous applicants if known.
2. Applications are to include at least the following: name; address; telephone number; age; years of residency; education; work history; prior

government experience; community service, and a release for background checks if desired.

3. An elected position description will be provided to each applicant identifying at least the following: length of appointment; roles and responsibilities; realistic time commitment requirement; current list of Council members and telephone numbers.
  4. The Mayor and City Council may, by mutual agreement, interview one or more applicants in a work session. Interviews are subject to open meetings law. Each applicant shall be interviewed separately, which may include using a common list of questions prepared in advance.
  5. The Mayor's appointment to fill the vacancy (pursuant to Section 28 of the Stayton Charter) shall be announced at a regular or special Council meeting. The City Council may then schedule a work session for the purpose of interviewing the nominee, if not previously done pursuant to #4 above.
  6. The Council shall vote to ratify or reject the Mayor's appointment at a regularly scheduled Council meeting. If ratified, the Mayor's appointment is confirmed; if rejected, the position shall be deemed to remain vacant.
- B. The Mayor shall appoint one or more Council members to serve as the City's representative to all committees, boards, or agencies outside the City government in which the City has an interest.
- C. The Mayor may appoint one or more Council members to serve as liaisons with all City advisory committees, civic groups and organizations, and intergovernmental agencies or groups of which the City is a member or a participant.
- D. In the event of a mayoral vacancy the Council may do any of the following:
1. The President of the Council assumes the duties of the Mayor under Section 14 of these rules until such time as the position of Mayor is filled;
  2. The President of the Council becomes the acting Mayor, subject to the Council's ratification to become Mayor and as acting Mayor may;
    - a) appoint self as mayor subject to Council ratification;
    - b) appoint another as mayor subject to these rules and to Council ratification.

3. The President of the Council assumes the duties of Mayor and the City Council calls a special election for the election of a Mayor.

**SECTION 16. COMMITTEES**

In addition to the boards and commissions specifically provided for in the Stayton Municipal Code (SMC), as well as the Budget Committee, which is governed by the Oregon Revised Statutes (ORS), the Council may create standing committees and/or ad hoc committees to advise the City Council on topics deemed to merit such committees. Specified boards and committees include:

<u>Committee</u>	<u>Voting Members</u>
A. Budget Committee	6 Citizen Members 5 City Councilors Mayor
B. Library Board	5 Citizen Members
C. Park and Recreation Board	7 Citizen Members
D. Planning Commission	7 Citizen Members (plus 1 non-voting H.S. student)

The Mayor shall have the power to appoint citizen members to all City boards, committees, and commissions with the approval of a majority vote of Council. The Mayor may appoint a Council member to serve as a non-voting representative to any City board, committee, or commission, (with the exception of the Planning Commission, due to the potential for an individual Council member to be challenged regarding ex parte contacts).

**SECTION 17. EXPENSES**

The Mayor or any City Council member who travels outside the City on City business is entitled to receive reimbursement for expenses, which shall be determined as follows:

- A. Travel on official business outside the City by a single individual may be via public carrier, City-owned vehicle, or private vehicle. If a private vehicle is used, mileage shall be paid at the standard Internal Revenue Service (IRS) mileage rate then in effect.
- B. City vehicles shall be used for authorized uses and shall absolutely not be used for private purposes.

- C. Reimbursement for expenses on official trips shall only be for expenses incurred during the performance of official duty as a City official for the City's benefit. Reasonable meal and lodging expenses may be reimbursed at actual cost upon provision of corresponding receipts to the Finance Director. The City shall not reimburse the Mayor or a Councilor for the cost of any alcoholic beverage.
- D. When the elected official's spouse accompanies the elected official to a conference, meeting, or other City function, the City may pay for the cost of registration, materials, meals, and lodging expenses for the spouse upon approval of a majority vote of the Council.
- E. The elected official shall submit a signed standard City expense voucher including copies of all bills, receipts, and/or mileage statements, to the finance officer prior to reimbursement.
- F. An elected official who will be leaving office in January of any year may be reimbursed for attending the League of Oregon Cities annual convention in November of the preceding year only if the elected official is a speaker at the convention, an officer in the League of Oregon Cities, or the Mayor and/or Council has authorized the elected official's attendance.

**SECTION 18. IN-SERVICE TRAINING AND EDUCATIONAL OPPORTUNITIES**

- A. The City Council encourages educational and training opportunities for the Mayor, Councilors, and committee members in order that services rendered to the City will be more effective. The City Administrator shall assist the Council and Mayor in developing training programs designed to meet immediate city-wide needs and in preparing Councilors and committee members to provide better service to the community.
- B. The City shall either pay for or reimburse an elected official or committee member for the cost of registration, tuition, books, or materials for conferences, conventions, training seminars, or courses directly related to the City service provided that:
  - 1. Funds for such expenditures are available in the current budget;
  - 2. The elected official or committee member has made application through the City Administrator prior to registration and has received approval for participation in the training session or educational program;
  - 3. The individual is not receiving reimbursement from any other source.

**SECTION 19. CEREMONIAL EVENTS OR ACTIVITIES**

In the performance of the official duties as Mayor, the Mayor may authorize expenditure of City funds up to an amount of \$200.00 per event/activity for incidental gifts, meals, events, and other ceremonial activities if adequate funds are available in the City budget to cover the expenditures. No expenditure of City funds is allowed for alcoholic beverages. The Mayor shall report any ceremonial or incidental expenditures to the Council on a monthly basis.

**SECTION 20 . POLITICAL ACTIVITY**

- A. No person shall attempt to or shall actually coerce, command, or require a public employee to influence or give money, service, or other items of value to promote or oppose any political committee or to promote or oppose the nomination or election of any candidate, the adoption of a measure, or the recall of a public office holder while the employee is on the job during working hours. This section does not, however, restrict the right of a public employee to express personal political views when not on duty with the City.
  
- B. No elected member of the Stayton City Council shall be appointed as a paid employee of the City. Nothing in this section shall affect the right of a member of the City Council from working for the City as a private contractor or as an employee of a business enterprise conducting business with the City or from performing service for the City.

**SECTION 21. SUSPENSION OF RULES**

Any rule prescribed in this resolution may be suspended by the City Council upon majority vote of the Council members present at the meeting.

**SECTION 22. EFFECTIVE DATE**

These rules shall take effect upon the passage of this Resolution.

**SECTION 23. RESOLUTION REPEALED**

Resolution No. 727, Rules of the Stayton City Council, passed by the Council on the 19<sup>th</sup> day of May, 2003, is hereby repealed in its entirety.

ADOPTED BY THE STAYTON CITY COUNCIL this 15<sup>th</sup> day of October, 2007.

CITY OF STAYTON

Dated: October 19, 2007

By: Virginia L. Honeywell  
Virginia L. Honeywell, Mayor

Dated: October 19, 2007

By: Chris Childs  
Chris Childs, City Administrator

APPROVED AS TO FORM:

David A. Rhoten  
David A. Rhoten, City Attorney