

Nominating and Rules Committee working session
5:00 p.m. Thursday, January 31, 2019

Attendance: Charles Frierson, Dr. Charles Coleman, Ann Williams Chris Gibson, John Street, Joe Hafner, David McClain, Donna Jackson and Bill Campbell.

City Clerk Donna Jackson: It was my understanding that at the last work session, it was recommended that we limit whomever from talking at all three readings. The only input I would have here is I think you should just leave it as is. What I'm trying to avoid for whoever is presiding is not to show favoritism. We have to be very careful of that. Maybe the best thing to do is leave it as is and let Mayor Harold Perrin take care of it. I say Mayor, but it's anyone who is conducting the meeting.

Councilmember Joe Hafner: Can councilmembers say, "hey, I think they have already said this before," and then the Mayor stop them or the presiding officer stop them?

City Clerk Donna Jackson: Well, the problem with members, and I'm saying this in the kindest way I know how is that, whoever is presiding over that meeting is the one conducting that meeting, and members of the committee should address the presiding officer if they want to ask somebody to come to the podium. I'm hearing this from other people. Because, if you have several members of Council calling people up there, they are conducting the meeting, and not the presiding officer.

Councilmember Dr. Charles Coleman: I think the presiding officer needs to have a little bit more stronger opinion. It's kind of like the last council meeting we had and maybe the presiding officer is not watching what they're doing. Like I was trying to speak, but I couldn't get a muzzle on Councilmember Street for a few minutes.

Councilmember John Street: I don't think he heard you.

City Clerk Donna Jackson: Well, I can tell you that, sitting in the middle, with the way our council is right now and that it's curved, it's hard to tell who's speaking. Used to, I could tell exactly who spoke.

Councilmember Dr. Charles Coleman: This might be taking it too far, but have we ever thought about the button deal.

City Clerk Donna Jackson: We looked at that, but it's very expensive. I don't mean this in a derogatory way, but I would like to see us get on a more professional level.

Councilmember Dr. Charles Coleman: I don't have a problem with that statement.

City Clerk Donna Jackson: It's hard because we started out with like 20,000 people and it was kind of laid back, but we're getting to be a bigger city. Robert's Rules of Order is a big pain and I know that, but I'd like to see us start getting more professional. As many meetings as we're

having, it's easy to make a mistake. You're trying to conduct all of the city's business and the people who are there are interested in one or two issues.

Councilmember Dr. Charles Coleman: Could there be a time limit placed on how long a councilmember speaks.

City Clerk Donna Jackson: You can do anything you want, but the question is can you actually enforce it.

Councilmember Dr. Charles Coleman: We put that limit on those who come up and speak, so, what's the difference.

Councilmember John Street: I think that goes back to the Mayor is the presiding officer of the council meeting and he can pretty much run it. If he wants to extend time, it's his prerogative.

Councilmember Joe Hafner: I think, in regards to rule #2, it goes by consistency because if you grant time to one person, but you don't grant it to another person, then you're looked at as showing favoritism or not being fair to this person. If you make a rule stricter, but you're not enforcing the original rule, then you're probably not going to enforce the stricter rule. I'm not calling shots at the Mayor. It's hard up there when you have people wanting to talk. We have to be consistent. If you turn the timer on for one person, then you have to turn the timer on for the other.

Councilmember Charles Frierson motioned to strike the red-letter version of Section 2-84 (g) (2), seconded by Councilmember Ann Williams. All voted aye.

Chairmember Chris Gibson: Since we have struck that down, do we need to add something so if the presiding officer is not adhering to the rules that are written that we can interject and call a point of order.

City Clerk Donna Jackson: One of the recommendations that was put in earlier and taken out, and you may not want this, was to allot 10 minutes per side.

Councilmember Dr. Charles Coleman: That's what I was talking about a few minutes ago. There needs to be some type of time limit. We have the time limit right for public comments at the end. It would be 10 minutes per side, who's for it and whose against it. It would be an automatic 10-minute allotment.

Councilmember Ann Williams: I think that's good because if there is a group opposed to something, they can send up someone to be their spokesperson and I think that works out better as far as time. It's more effective and really to their benefit to do that.

City Clerk Donna Jackson: I think so, too.

Councilmember Dr. Charles Coleman motioned to allot a 10-minute per side time limit for discussions, seconded by Councilmember Ann Williams. All voted aye.

Chairmember Chris Gibson: I think Section 2-85(i) is pretty cut and dry. No chief concerns with this one.

City Clerk Donna Jackson: This became an issue because we had a situation where we were required to have so many votes, and a person left and it affected the vote. I was telling Councilmember Frierson that some of our meetings start at 4:00 p.m. and go until 8:00 p.m., and we may need a bathroom break, but the problem is, in order to keep the record, when I see someone leave, I certainly don't want to embarrass anybody.

Councilmember John Street: We could ask for a recess. You could ask whoever the presiding officer is if there could be a 5-minute recess. That should take care of that.

City Clerk Donna Jackson: I have also seen where people will come in and, this is councilmembers, and they are supposed to be sitting in their chair, but they're over somewhere else. I don't know whether to count them as present or whether to count them as voting. This is committee and council.

Councilmember John Street: If I come in and I'm not on a committee, I don't sit there.

City Clerk Donna Jackson: It's only committee members that I'm talking about. It's rare and it doesn't happen often, but it does happen, and I'm not sure how to handle that.

All voted to leave Section 2-85(i) as written.

Chairmember Chris Gibson: Regarding Section 2-87(k) (1), the deadline for agenda items will be changed from before 10:00 a.m. Thursday to 3:00 p.m. on Wednesday.

Councilmember Dr. Charles Coleman: Is that state law?

City Clerk Donna Jackson: It is not state law. My office prepares the agenda and right now, the deadline is 10:00 a.m. on Thursday, except for Mayor Perrin, who has another deadline at 4:00 p.m. on Thursday. If there are any changes to be made, this gives the Mayor the chance to request those changes. We then make those changes before sending the agenda out to the public.

Councilmember Dr. Charles Coleman: Not so much taking up for your office, but it just seems like there's not enough time. It's like you don't have enough time to correct something.

City Clerk Donna Jackson: The way it is right now, departments can enter their own agenda items and they have access to my software, the Legistar system. What we are finding is that there are a lot of new employees who have never written ordinances. If this goes through, I'm going to do a training session and I will ask that each of you keep in mind that I may come back and ask for this to be amended if it isn't fitting the time right. I'm hoping to eventually take their Legistar ability away other than the ability to look on the internet and find the ordinance, but we're going to enter the legislation for them. In the process, I want permission from the Council, the Mayor and everybody because I don't have the authority to rule over any employee, but what I'm

finding is that we're not getting the contracts. We're not getting complete information. It's incomplete or it's incorrect. It will be another filter. I won't catch it all. There will be typos and there will be mistakes, but we're going to do the best we can to try and stop that.

Councilmember Dr. Charles Coleman: Will councilmembers be able to attend the training sessions?

City Clerk Donna Jackson: Yes. Mayor Perrin and I discussed this and we're wanting to do one with all the department heads, but also the Council. We want to provide training on how to write an ordinance or a resolution.

Councilmember Dr. Charles Coleman: That's the reason I have them come to you is because I don't know the process. Someone asked me about that in public the other day and I might have spoken out of turn, but I said if you don't know then you strictly need to see the City Clerk's office.

City Clerk Donna Jackson: I don't act as an attorney. There are just some basic rules that I learned as a clerk on how to write legislation. It's not that I have a legal opinion. This will give them some tools so whenever they're writing something to know how to explain it better. It was very helpful. I have done this for the Chamber of Commerce a number of times.

Councilmember Joe Hafner: It seems like not too long ago there was an issue where City Attorney Carol Duncan was out and something didn't get approved and it couldn't be placed on the agenda. Is there something here where it has to be approved by the City Attorney?

City Clerk Donna Jackson: We all sat down together when Legistar was designed and the whole purpose of this was to make it more transparent to the public and give the Mayor full control of the agenda. I'm not referring to a councilmember, but it has to go to the Mayor first. Once he approves it, it goes straight to the City Attorney and then she has to review it. She always says she does it "as to form." That's not necessarily a legal opinion. If she sees something glaring, she'll say that.

Councilmember Joe Hafner: If she's out of town or on vacation, then who would approve that?

City Clerk Donna Jackson: I guess the Assistant City Attorney Jessica Coleman. The City Attorney would look at it and say go ahead and approve it.

Councilmember Joe Hafner: I have another question on Section 2-87(k) (2). Is this referring to anybody from the public or any councilmember would have to have it turned in by 3:00 p.m. on Wednesday or they can't have it at the meeting?

City Clerk Donna Jackson: How many times have you got to your seat before a meeting and there's something lying there and you don't know what it goes to? That is what we're talking about here.

Councilmember Joe Hafner: We also have where someone is coming up to speak and they'll say I have some handouts I want to give the Council. I know you ask for a copy.

City Clerk Donna Jackson: But, I don't always get it.

Councilmember Joe Hafner: I think that's what that is trying to address here. Whose job is it to let them know if they have any presentations or handouts that they have to be submitted by 3:00 p.m. on Wednesday?

City Clerk Donna Jackson: That should come through the City Clerk's office because, ultimately, if it's a Council meeting and it pertains to the Council, I keep those records, and we scan it in and make an attachment. It may be something that 10 years from now somebody is going to want a copy of it and the first person they are going to call is me.

Councilmember Joe Hafner: In regards to the consistency thing, if someone comes up for a rezoning and they haven't turned in their information and the Mayor says it's okay, then right there the rule loses its validity. I'm fine with it being 3:00 p.m. on Wednesday, but when it comes to no material should be handed out in Council meetings, I want to make sure that the people who might be presenting know they have to have it in by 3:00 p.m. on Wednesday.

Councilmember Charles Frierson: I don't see how that's workable. I really don't.

Chairmember Chris Gibson: Could it be reworded to where it's presented to the clerk prior to the meeting and then be distributed by the clerk?

Councilmember Charles Frierson: If she is missing it, it's because she hasn't asked for it because they'll give it to her if she needs it. I know the clerk has a few other things to do at the meeting, but it's partly her job to say, "Hey, I haven't got that."

City Clerk Donna Jackson: I do, and they look at me like whatever.

Councilmember Dr. Charles Coleman: That's why I asked that question a little bit ago because is it enough time.

Councilmember Joe Hafner: I think in this case, it's too much time because they would have to be turning the documentation in almost a week ahead of the meeting.

City Clerk Donna Jackson: Another issue that has come about with this is that things have been given to another person. They come up and hand it to the Council. I don't know where it has come from and it hasn't been reviewed by an attorney.

Councilmember Joe Hafner: I understand the reason. I just don't know if the deadline is a reasonable deadline.

Councilmember John Street: A lot of times people are there to talk at public comments and it doesn't have anything to do with what's on our agenda, but they'll get up and say that they have

a ditch they have been after the city to fix. The water is running down the hill and here are pictures, and they pass them out to everybody, but that's not on the agenda and anything we're going to take action on. Would it apply to any of that?

Councilmember Joe Hafner: It just says agenda items right now.

City Clerk Donna Jackson: We've never had this happen, but my concern is protecting the Council and the Mayor at this point because you don't know when someone is going to give a zip drive to Communications Director Bill Campbell that get plugged in and it may contain a virus with something awful that could be sent out.

Councilmember Joe Hafner: If it could simply be reworded to say that any presentation materials to be presented must be turned in by 10:00 a.m. on the day of the meeting.

Councilmember Charles Frierson: I could go for that.

City Clerk Donna Jackson: It really needs to come to us first.

Communication Director Bill Campbell: It really needs to go to the City Clerk first and, appropriately, it needs to be checked by information systems to make sure someone is not giving us malware or anything like that.

City Clerk Donna Jackson: We need to talk with Chief of Staff Bill Reznicek.

Councilmember David McClain: I get where you all are coming from and what you're saying, but you may get into a situation where we're looked at like we're trying to limit what the public is saying or what type of presentation they are going to make.

City Clerk Donna Jackson: Just scanning for viruses isn't approving it.

Councilmember Dr. Charles Coleman: Can't those terms be put in this, such as to scan for viruses.

City Clerk Donna Jackson: To give an explanation of it?

Councilmember Dr. Charles Coleman: Yes, to give an explanation of it.

Chairmember Chris Gibson: That's all already in the next paragraph.

City Clerk Donna Jackson: That would help a lot in keeping an accurate record because a lot of times people are nervous when they come to that microphone and they may state their name and address, but you don't always get it.

Councilmember Joe Hafner: I think it would help avoid is someone's flash drive is not working and then information systems has to come out and fix the issue. If Ms. Jackson already has everything cued up, it should help the meeting run smoother. I can't make the motion, but I

would simply ask that all presentation materials must be submitted to the City Clerk's office by 10:00 a.m. the day of the meeting.

Councilmember Charles Frierson motioned that Section 2-87(k)(2) be changed to read that all presentation items must be turned into the City Clerk's office by 10:00 a.m. on the day of the meeting to be scanned for viruses, seconded by Councilmember Ann Williams. All voted aye.

Councilmember Joe Hafner: The 3:00 p.m. still applies to items on the agenda. The 10:00 a.m. is for presentation items.

City Clerk Donna Jackson: This is really for the benefit of the department heads who are going to be bringing us ordinances because we have to enter it into Legistar for them.

Councilmember Joe Hafner: Do you all see an issue with department heads not being able to enter stuff into Legistar?

Communications Director Bill Campbell: I don't think it's the best practice because of the type of stuff I have seen that I have to edit just for grammar purposes.

Councilmember Joe Hafner: You don't think the current way is the best way.

Communications Director Bill Campbell: I think it should be sent to the City Clerk.

City Clerk Donna Jackson: Let me clarify something. Department heads will still be writing their own legislation. My training is only to help them get better at it. I will be looking to see if we will be adopting this by reference. If so, has it been publicized and do we have three copies in my office. If not, it doesn't go. I'm not going to try and interfere with what they are trying to do. We are really trying to help them.

Councilmember Joe Hafner: Like the landscape ordinance. You would have caught that up front and we wouldn't have had to appeal and then redo.

City Clerk Donna Jackson: That's another thing that I want to show them is that when we're writing something we need to keep in mind that it is 65 cents per word. That was a 15-page ordinance. That was going to run \$4,000, and I didn't catch it because it's put into Legistar and all I see is the title, unless I open it up. Those are the type of things I want my office to catch.

Councilmember Charles Frierson: What's on page eight?

Chairmember Chris Gibson: Page 8 paragraph 6, I believe this is just clerical stuff, as well. I think it's just housekeeping stuff. Unless anyone sees any reason to change anything, then I think we are good. On page 9, again, I think it's just housekeeping stuff. I think those are all the changes we discussed the last time. There were a few other concerns that were brought to my attention, including that walk-ons being proposed by department heads must be requested by the Mayor or Chief of Staff. Any comments on this?

Councilmember Dr. Charles Coleman motioned that walk-ons must be requested by the Mayor or Chief of Staff, seconded by Councilmember Charles Frierson. All voted aye.

Chairmember Chris Gibson: The next concern was committee chairs approving an agenda prior to it being published in Legistar.

Councilmember Joe Hafner: That's one of the things I mentioned to the City Clerk. The Council meetings are ran by the Mayor and he controls that agenda. I just feel like the committee chair should have some sort of heads up or input into why an item is on the agenda. In the past year, when we had a finance meeting, I had no idea the elected official compensation was going to be on the agenda and when I saw it on there, I thought this is going to be fun. Sometimes it looks like we're the ones presenting the stuff, but we're actually seeing it at the same time the public sees it.

Chairmember Chris Gibson: You and I had this conversation prior to the last meeting and I did bring it up. I defer to Councilmember Charles Frierson and Councilmember Ann Williams, but I believe that it is state law that the Mayor sets the agenda. Is that correct?

Councilmember Joe Hafner: Even for committee meetings?

Councilmember Charles Frierson: I doubt that it applies to committee meetings.

City Clerk Donna Jackson: Actually, the Mayor is setting committee meetings. That was something the Mayors did, but there should be some consideration for the person having to conduct that meeting.

Chairmember Chris Gibson: I agree.

Councilmember Charles Frierson: I agree with this. Let's do it.

City Clerk Donna Jackson: We will check on this.

Chairmember Chris Gibson: Do we need to change the verbiage from approve to something else?

City Clerk Donna Jackson: I do think that the committee chair should know what is going to be on that agenda. I want committee chairs to start looking at this. If it just has a set of minutes on there, somebody needs to be letting us know.

Councilmember Charles Frierson: I'm ready to adopt this. You don't have to sell it.

Chairmember Chris Gibson: I think we need to change the verbiage to review instead of approve.

Councilmember John Street: Will it be a check box?

City Clerk Donna Jackson: We can set it up to where you all have to approve it before it goes to the City Attorney.

Councilmember Joe Hafner: If we have a question about why is this item on the agenda, we just need to have enough time to call Mayor Perrin or call Bill Reznicek.

City Clerk Donna Jackson: These are done the Thursday before the meeting. We'll send you a notice and you will approve it or not. If you hold it, it doesn't make the agenda.

Councilmember Charles Frierson motioned that committee chairs review the agenda prior to it being published in Legistar, seconded by Councilmember Ann Williams. All voted aye.

Chairmember Chris Gibson: Process for councilmembers to be able to add legislation to agendas.

Councilmember Joe Hafner: Kind of give us the background on that. Last year or two years, when I kind of wrote the sidewalk ordinance, I sent it to the City Clerk and others to review and it was entered into Legistar. It wasn't actually placed on any agendas, but it was put in Legistar. So, what would change?

Chairmember Chris Gibson: I don't recall discussion on this one at all.

City Clerk Donna Jackson: One of the things that has happened is that we'll have a committee and councilmember will want to present something. We put it on the agenda and it doesn't get approved. It goes to the Mayor and then to the City Attorney. I'm just asking for a process because it's left kind of in limbo, and it's very rare that a councilmember brings anything that they haven't already discussed with the Mayor.

Councilmember Joe Hafner: Back to my sidewalk ordinance, you're saying that if I asked for that to be put on the Public Works Committee and the Mayor said no, then he could have shot it down right then and I wouldn't have had any say on getting it back on the agenda.

City Clerk Donna Jackson: I guess you could suspend the rules and walk it on, but then that individual is accused of rushing it through.

Councilmember John Street: What about Section 2-87(k) (5)? Does that not address that? If it came to your office just like the rest of this will, wouldn't that fix that? I mean it's already in place here.

Councilmember Ann Williams: I assumed that if we drafted something whether it was brought to us by a citizen or our own initiative that once we got the language approved by the City Attorney that we could put it directly on the committee agenda. That was my understanding.

City Clerk Donna Jackson: It's kind of been silent. I have run into this situation before where someone would want it on there and it wouldn't be approved.

Councilmember Ann Williams: Approved by whom?

City Clerk Donna Jackson: The Mayor.

Councilmember Ann Williams: I was not aware that the Mayor had to approve something if we put it on the committee agenda.

City Clerk Donna Jackson: That's what I'm asking for clarification on because I do think it's questionable.

Councilmember Charles Frierson: It doesn't need to be clarified any more than what Councilmember Street just read.

Councilmember Ann Williams: If someone comes to us and wants us to sponsor something, then my understanding is that we could either on their behalf or our own initiative place it on the committee agenda once it's been approved by the City Attorney. That was my understanding.

City Clerk Donna Jackson: That was my understanding, too, but we've had situations that come up that it didn't work that way.

Councilmember Joe Hafner: Then we need to go back to refreshing people's memory on Section 2-87(k)(5).

Councilmember John Street: Could you insert reviewed "by form" so that is all the review would detail. If you inserted "by form" after review because you said the City Attorney just reviews them by form anyway then she wouldn't have anything about the content. It would just be whether it's in correct form for the legislation proposed.

City Clerk Donna Jackson: Would you want her to not say anything if there was something glaring?

Councilmember John Street: Well sure. I would hope she would do that anyway.

Councilmember Joe Hafner: I think it's fine the way it is, honestly.

Councilmember Charles Frierson: I do, too.

City Clerk Donna Jackson: So, just leave it the way it is?

Councilmember Ann Williams: The way this language is stated, it doesn't say anything about this being approved by the Mayor. I would have objected, if the incident occurred, that there was a problem doing it this way because, to me, this line speaks for itself.

City Clerk Donna Jackson: I would think so, too, but all the agendas go through that process. I'm going to see if we can't get a councilmember to approve it for committees in the process.

Councilmember Ann Williams: Once it's been approved by the City Attorney.

City Clerk Donna Jackson: I do think the Mayor needs to be included in on that and then the City Attorney would approve it.

Councilmember Joe Hafner: I think it's key to show who the correct sponsor is.

City Clerk Donna Jackson: But keep in mind that we're on a tight schedule here. You can't just not approve it or not deal with it.

Councilmember Ann Williams: When you say approve, whom are you talking about?

City Clerk Donna Jackson: I was asked to add the chairs of the committees on the Legistar process for their committee agendas. If you are a chair, you have to remember. You can't just ignore it or it won't be on the agenda.

Chairmember Chris Gibson: Is there anything else before we try to move this on to full council?

Councilmember John Street: The notification of members for the special-called meetings. It says that notification must be made by personal service to each member or by telephone specifying time and place of meeting. I know it's a pain, but I would love to have a telephone call because I'm not always sitting at my computer. I know it's an inconvenience, but if I'm out and not sitting in front of my computer, I have no way of knowing that a meeting is coming up, and I've missed a few because of that. It aggravates me. I know it's a pain, but if I can get a phone call for a special meeting, I'll be there, unless I'm out of town.

City Clerk Donna Jackson: We've been doing that since you requested it.

Councilmember Joe Hafner: Where does it talk about if special-called meetings need to be cancelled?

Councilmember John Street: Whoever calls it has to cancel it.

Councilmember Joe Hafner: What was it at the end of the year when we kept calling a special finance meeting and cancelling the special finance meeting?

Councilmember John Street: That was Councilmember L.J. Bryant and I because the terminology from the staff was not correct. I didn't like that either. I had some harsh words with Bill Reznicek over that.

City Clerk Donna Jackson: There was a legal opinion given and it was the kind of thing where it was amending something. I'm trying to remember the issue.

Councilmember Joe Hafner: It was over the budget change.

City Clerk Donna Jackson: They called for a reconsideration, and the City Attorney told them they could do a reconsideration, which is in our rules. It had already been voted on and was

denied, I believe, and they wanted a reconsideration of that. That's what we were told and that's why my office requires the chair to call it and to put it in writing. I believe the chair was out or something and didn't call the meeting, but it also says that two members of that committee can call it and it was Councilmember Street and Councilmember Bryant. I gave them fits because I wanted it in writing and that's for a reason.

Councilmember Charles Frierson: Which is what?

City Clerk Donna Jackson: Because I have had situations where I get a call to put an item on the agenda and we do just that, and then it comes out to not be really politically correct and it comes back that that's not what was asked for. On that particular one, they wanted a reconsideration. To do that, you have to reconsider exactly what you considered before. Then it was changed because they wanted something else. They made an amendment. So, the City Attorney had told them to just start over.

Councilmember John Street: So, it has to be cancelled and then called again.

City Clerk Donna Jackson: Then, after we sent out that second notice, it was decided that they wanted to amend it again.

Councilmember Joe Hafner: Just to be clear, I wasn't out, but I told them that I already had my meeting, but if someone wants it heard again, then they can call the meeting.

City Clerk Donna Jackson: I do appreciate what each one of you have to deal with, and I have my issues, too. It's just trying to find a good working relationship.

Councilmember Joe Hafner: It goes back to consistency.

Chairmember Chris Gibson: We need a motion to forward these changes to full council.

Councilmember Dr. Charles Coleman motioned to recommend the procedure changes to full council, seconded by Councilmember Ann Williams. All voted aye.

Councilmember Ann Williams motioned that the meeting be adjourned, seconded by Councilmember Charles Frierson. All voted aye.