

## RESOLUTION NO. 2021-11

### **RESOLUTION AMENDING COUNCIL RULES BY AMENDING SECTION 3.8, MEETINGS OPEN TO THE PUBLIC TO ADD SERIAL COMMUNICATIONS; ADDING SECTION 5.7 PERTAINING TO CENSURE; AND MOVING SECTIONS 7.2 AND 7.4, IN THEIR ENTIRETY AND WITH ONE MINOR CHANGE, TO SUBSECTIONS UNDER SECTION 6.4.2, PERTAINING TO PUBLIC COMMENT**

**WHEREAS**, on September 11, 2020, the Council held a mini-retreat work session to discuss changes to the Council Rules regarding roles and responsibilities of elected officials, council communications, statements to the media, use letterhead, ethics, decorum and censure, interactions with city staff and city attorney, serial communications, and public meetings law; and

**WHEREAS**, the Council reached consensus the Team Agreement and City Council Orientation should be incorporated into the Council Rules and once complete, cease to be documents; and

**WHEREAS**, the Council reached consensus the League of Oregon Cities (LOC) "Model Rules of Council Procedure" (Model) serve as a basis for Council Rule revisions; and

**WHEREAS**, the Council reached consensus during a work session on January 25, 2021, to consolidate like sections and reduce redundancy by moving sections pertaining to persons sharing common concerns and complaints and suggestions to the Council to the section pertaining to public comments.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

**Section 1.** The City Council amends the City Council Rules of Procedure as follows:

Amend Section 3.8 to read:

#### **3.8 Meetings Open to the Public and Serial Communications**

- A. All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192. A quorum of the Council is prohibited from meeting in private to make decisions or deliberate on matters of city business that fall within the scope of the Council's jurisdiction. This prohibition includes in-person meetings where a quorum exists as well as serial communications that may occur over email, text message, social media, and through conduits such as staff.
- B. One-on-one or small group (non-quorum) conversations or communications regarding city business are generally permitted as long

as the views or thoughts of a quorum of the Council are not shared during those conversations. As a result, councilmembers should share only their personal views on city business being discussed in one-on-one or non-quorum conversations and not discuss the views or opinions of other councilmembers who are not involved in the discussion.

- C. Councilmembers should avoid “replying all” to informational emails sent to the entire Council or a quorum of councilmembers regarding city business that occur outside of a Council meeting. Although one-way information sharing on administrative items (i.e., agenda topics and meeting availability) is permissible outside of a Council meeting, councilmembers should avoid back and forth conversations between a quorum of members via email.
- D. Councilmembers should be cognizant that a “serial” meeting can occur through the use of social media if a quorum of the Council engages in discussions regarding city business on a social media platform. As a result, Councilmembers should be careful not to comment or engage in a social media conversation regarding city business that other members of the Council have already participated in.

Add new Section 5.7 to read:

### **5.7 Censure**

- A. The Council may enforce these rules and ensure compliance with city ordinances, charter and state laws applicable to governing bodies. If a councilmember violates these rules, city ordinances, the city charter or state laws applicable to governing bodies, the Council may take action to protect the integrity of the Council and discipline the member with a public reprimand.
- B. The Council may investigate the actions of any councilmember and meet in executive session under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the city charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).

Move Section 7.2 and 7.4, in their entirety and with one minor change, to subsections under Section 6.4.2 to read:

### **6.4.2. PUBLIC COMMENT**

- F. Persons Sharing Common Concerns. If any group of three or more persons sharing a common viewpoint on any subject wishes to address the Council during the time set aside for Public Comment, the group may select a spokesperson, which may present the views of the group to the

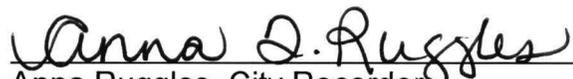
Council to a maximum of five (5) minutes, unless additional time is granted by the Presiding Officer. The Council, in its sole discretion, may request to hear the views of additional speakers from the group. Additional support for the views of the group, in the form of petitions, letters, videotapes, etc., shall be presented to the City Recorder at the conclusion of the spokesperson's remarks.

G. Complaints and Suggestions to the Council. When any citizen brings a complaint before or makes a suggestion to the Council, other than for items on the current meeting agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

- (1) If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to the City Attorney, City Manager, or an advisory body for study and recommendation.
- (2) If administrative, and a complaint regarding administrative staff performance, administrative execution or interpretation of legislative policy, or administrative policy within the authority of the City Manager, the Presiding Officer shall refer the complaint directly to the City Manager for review if the complaint has not already been reviewed. The Council may direct the City Manager to report to the Council when the review has been completed.

**Section 2.** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 8<sup>th</sup> day of February, 2021.

  
Anna Ruggles, City Recorder

**APPROVED** by the Mayor this 8<sup>th</sup> day of February, 2021.

  
Peter B. Truax, Mayor

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A place where families and businesses thrive.

|                                |                     |
|--------------------------------|---------------------|
| <u>CITY RECORDER USE ONLY:</u> |                     |
| AGENDA ITEM #:                 | <u>6.</u>           |
| MEETING DATE:                  | <u>02/08/2021</u>   |
| FINAL ACTION:                  | <u>RESO 2021-11</u> |

**CITY COUNCIL STAFF MEMORANDUM**

**TO:** City Council

**FROM:** Jesse VanderZanden, City Manager

**PROJECT TEAM:** Anna Ruggles, City Recorder  
Jesse VanderZanden, City Manager

**MEETING DATE:** February 8, 2021

**SUBJECT TITLE:** Resolution Approving Revisions to City Council Rules of Procedure

**ACTION REQUESTED:**

|                          |                          |                          |                                     |                          |                          |                          |
|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|                          | Ordinance                | Order                    | X                                   | Resolution               | Motion                   | Informational            |

X all that apply

**BACKGROUND:**

The City Council held a mini-retreat on September 11, 2020, to discuss Council Rule changes regarding the roles and responsibilities of elected officials, council communications, statements to the media, use of title and letterhead, ethics, decorum, censure, interactions with city staff and city attorney, serial communications, and public meetings law.

The Council reached consensus on September 11 to incorporate the Team Agreement and City Council Orientation into the Council rules where appropriate. They also reached consensus to use the 2017 League of Oregon Cities (LOC) "Model Rules of Council Procedure" (Model) as a basis for Council Rule revisions.

The Council held a work session on October 12 and reached consensus to incorporate an introduction and a meeting end time into the Council Rules. These items were amended into the Council Rules by resolution on November 9.

The Council held work sessions on November 23, 2020, and January 11, 2021 and reached consensus to incorporate proposed Council Rule Sections 5.1, 5.2, 5.5, and 5.6; pertaining to decorum and order, ethics, and statements to the media and other organizations. These items were amended into the Council Rules by resolution on January 25, 2021.

The Council held a work session on January 25 and reached consensus to consider a resolution to include a new rule regarding censure (Section 5.7), amending existing rules regarding open meetings by adding serial communications (Section 3.8) and moving sections pertaining to persons sharing common concerns and complaints and suggestions to Council (Sections 7.2 and 7.4) in their entirety, with one minor change, to Section 6.4.2.

### **PROPOSED RULE CHANGES:**

To enable a review of the proposed changes, the following template is provided:

- Regular text indicates existing Council Rule language.
- **Bold** text indicates proposed new Council Rule language based on the LOC Model.
- ~~Strikethrough~~ indicates proposed deleted existing Council Rule language.
- **Red** text indicates provisions from the Team Agreement.
- **Blue** text indicates past practice guidelines from the City Council Orientation.
- **Purple** text indicates new text proposed by staff.

All proposed rule changes will be presented in two formats. The first format is with mark-ups which show all of the proposed changes. The second format is without mark-ups which is how the rule would read if passed and incorporated into the Council Rules.

### **PROPOSED CHANGES WITH MARK-UP:**

Currently there are no censure provisions in the Council Rules. The language below is taken verbatim from the LOC Model Rules.

#### **5.7 Censure**

**A. The council may enforce these rules and ensure compliance with city ordinances, charter and state laws applicable to governing bodies. If a councilmember violates these rules, city ordinances, the city charter or state laws applicable to governing bodies, the council may take action to protect the integrity of the council and discipline the member with a public reprimand.**

**B. The council may investigate the actions of any councilmember and meet in executive session under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the city charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).**

The Council discussed the definition of serial communications on November 23 and January 25 and requested staff return with draft rule language. The proposed language below was drafted by the City Attorney and derived from Oregon Revised Statute 192 as well as subsequent court cases.

#### **3.8 Meetings Open to the Public and Serial Communications**

A. All meetings of the City Council shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192. **A quorum of the Council is prohibited from meeting in private to make decisions or deliberate on matters of city business that fall within the scope of the Council's jurisdiction. This prohibition includes in-person meetings where a quorum exists as well as serial communications that may occur over email, text message, social media, and through conduits such as staff.**

B. One-on-one or small group (non-quorum) conversations or communications regarding city business are generally permitted as long as the views or thoughts of a quorum of the Council are not shared during those conversations. As a result, councilmembers should share only their personal views on city business being discussed in one-on-one or non-quorum conversations and not discuss the views or opinions of other councilmembers who are not involved in the discussion.

C. Councilmembers should avoid “replying all” to informational emails sent to the entire council or a quorum of councilmembers regarding city business that occur outside of a Council meeting. Although one-way information sharing on administrative items (i.e., agenda topics and meeting availability) is permissible outside of a Council meeting, councilmembers should avoid back and forth conversations between a quorum of members via email.

D. Councilmembers should be cognizant that a “serial” meeting can occur through the use of social media if a quorum of the council engages in discussions regarding city business on a social media platform. As a result, Councilmembers should be careful not to comment or engage in a social media conversation regarding city business that other members of the Council have already participated in.

In an effort to consolidate like sections and reduce redundancy, Section 7.2 (Public Testimony – Persons Sharing Common Concerns) and 7.4 (Public Testimony - Complaints and Suggestions to the Council) would be moved with one minor change in their entirety under Section 6.4.2 as subsections F. and G.

#### **6.4.2 ~~CITIZEN COMMUNICATIONS~~ PUBLIC COMMENT**

**7.2 6.4.2 (F) Persons Sharing Common Concerns** – If any group of three or more persons sharing a common viewpoint on any subject wishes to address the Council during the time set aside for ~~Citizen Communications~~ **Public Comment**, the group may select a spokesperson, which may present the views of the group to the Council to a maximum of five (5) minutes, unless additional time is granted by the Presiding Officer. The Council, in its sole discretion, may request to hear the views of additional speakers from the group. Additional support for the views of the group, in the form of petitions, letters, videotapes, etc., shall be presented to the City Recorder at the conclusion of the spokesperson’s remarks.

**7.4 6.4.2 (G) Complaints and Suggestions to the Council** - When any citizen brings a complaint before or makes a suggestion to the Council, other than for items on the current meeting agenda, the Presiding Officer shall first determine whether the issue is legislative or administrative in nature and then:

- (1) If legislative, and a complaint about the letter or intent of legislative acts or suggestions for changes to such acts, and if the Council finds such complaint suggests a change to an ordinance or resolution of the City, the Council may refer the matter to the City Attorney, City Manager, or an advisory body for study and recommendation.

(2) If administrative, and a complaint regarding administrative staff performance, administrative execution or interpretation of legislative policy, or administrative policy within the authority of the City Manager, the Presiding Officer shall refer the complaint directly to the City Manager for review if the complaint has not already been reviewed. The Council may direct the City Manager to report to the Council when the review has been completed.

## **PROPOSED CHANGES WITHOUT MARK-UP:**

### 5.7 Censure

A. The council may enforce these rules and ensure compliance with city ordinances, charter and state laws applicable to governing bodies. If a councilmember violates these rules, city ordinances, the city charter or state laws applicable to governing bodies, the council may take action to protect the integrity of the council and discipline the member with a public reprimand.

B. The council may investigate the actions of any councilmember and meet in executive session under ORS 192.660(2)(b) to discuss any finding that reasonable grounds exist that a violation of these rules, local ordinance, the city charter or state laws applicable to governing bodies has occurred. Sufficient notice must be given to the affected member to afford them the opportunity to request an open hearing under ORS 192.660(2)(b).

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#### **STAFF RECOMMENDATION:**

Staff recommends the Council consider the attached resolution. If approved, the changes will be incorporated into the Council Rules, distributed to Council, and posted on the website. If a councilmember has any questions beforehand they are encouraged to contact city staff.

#### **ATTACHMENTS:**

- Resolution amending the Council Rules by adding section 5.7 pertaining to Censure; amending Section 3.8, Meetings Open to the Public to add Serial Communications; moving Sections 7.2 to and 7.4 to 6.4.2, with one minor change, in their entirety.