

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	March 23, 2021
Action Required:	Motion to Approve Amendments to Council Rules and Procedures
Presenter:	Chip Boyles, City Manager Lisa Robertson, Chief Deputy/ Acting City Attorney
Staff Contacts:	Chip Boyles; Chris Cullinan, Finance Director; Kyna Thomas, Clerk of Council; Lisa Robertson
Title:	Proposed Amendments to Council Rules and Procedures to Address Expenditure of Funds by City Council and Related Issues

Background:

In February 2021 the City Attorney's Office called to City Council's attention expenditures from City Council's budget which had not been approved by Council as a body. This communication to City Council raised questions and issues that require City Council, as a body, to discuss and act upon—specifically, issues relating to how individual City Councilors may utilize credit cards issued in their names. In public comments received to date on those issues, two separate but related issues have surfaced:

(1) when and under what circumstances an individual member of the public may be paid compensation for his or her time spent sharing opinions or perspectives relating to City business, and

(2) need for clear direction from City Council regarding the extent to which individual councilors may utilize staff time/ resources/ funds for individual requests, activities or pursuits.

Discussion:

Attached is a Discussion Draft document, presenting amendments to City Council's Rules and Procedures. The provisions in the Discussion Draft reflect the legal opinions given by the City Attorney's Office in February 2021.

The following additional clarifications may assist Council with its deliberations:

1. Council, as a body, **may** vote to approve compensation to be paid to individuals serving on a group, the purpose of which is to advise City Council on matters of public policy. Va. Code 15.2-1411. 1
 - a. Members of the group may be appointed through the traditional application/ appointment process, or
 - b. Members of the group may be selected through selection criteria specified by City Council.
2. The City Manager **may** establish focus groups, may implement public surveys, may approve contracts that include payments for public engagement services, or may establish programs—any

1 A Virginia Attorney General Opinion states that a citizen advisory committee created by a city mayor to advise the mayor is not a public body, because it is not created by the governing body, does not perform delegated functions of the governing body, does not advise the governing body. 1978-79 Op. Att'y Gen. Va. 316A.

of which may provide for individuals to be compensated for their participation in a group, survey, engagement, or program. Selection of participants must be by criteria established in advance.

3. City Councilors **may** make FOIA requests, just like any other City resident (Councilors do not lose their individual rights when elected to public office). **HOWEVER, Councilors are not required to make FOIA requests** to obtain information about matters in which City Council is interested: City Code §2-157 specifically states that the “City Manager shall prepare and present to City Council such reports, summaries, and other information as Council shall request or require”. FOIA is a prescriptive, administrative procedure with deadlines and legal requirements. City Councilors should only submit FOIA requests when they intend for those requests to be made in their individual capacity as a City resident.

Alignment with Council Vision Areas and Strategic Plan: N/A

Community Engagement: N/A

Budgetary Impact: Yes.

Recommendation: The City Manager, Finance Director, Clerk of Council and City Attorney’s Office all recommend that Council should approve the attached amendments to Council’s Rules and Procedures.

Sample Motions:

“I move to approve the Amended City Council Rules and Procedures as presented to us by staff.”

“I move to approve the Amended City Council Rules and Procedures presented to us by staff, with the following changes.....”

Alternatives: City Council may choose not to act at all, or may choose to approve a different set of amendments to its Rules and Procedures.

Attachment (1): Discussion Draft Amendments to City Council Rules and Procedures

Charlottesville City Council Meeting Rules and Procedures

These *Charlottesville City Council Meeting Rules and Procedures* are designed to help City Council conduct its affairs in a timely and efficient manner, while encouraging a robust and meaningful dialogue with members of the community.

I. Meetings

A. Generally Meetings

1. Regular meetings of the City Council will begin at 6:30 p.m. on the first and third Mondays of each month (or the following day if that Monday is a legal holiday) in City Council Chambers (Second Floor, City Hall). Council will adopt a schedule for its regular meetings at its first regular meeting in January each year.
2. Council may hold additional meetings at other locations and times, or may change the location and time of a regularly scheduled meeting as it deems appropriate. In the case of inclement weather, the Mayor may cancel a meeting of the City Council. Notice of additional meetings or changes to the location or time of a regularly scheduled meeting will be provided to the public and press as required by the Virginia Freedom of Information Act (FOIA).
 - a. "Town Hall Meetings" may be regularly scheduled meetings, such as the "Our Town" meeting series, or may be scheduled as a special meeting by Council on a particular topic. A town hall meeting is a type of meeting at which Councilors answers questions from the public.
 - b. "Work Sessions" are meetings at which Council may discuss one or more specific topics in depth among themselves, or at which Council desires to receive an in-depth presentation from staff or an outside party on a particular topic. Council may vote on matters discussed at a Work Session (FOIA does not prohibit voting,) but generally the purpose of a Work Session is to inform Councilors on a topic and for Councilors to give staff or others general direction. Work Sessions may take place within a regular meeting or may be scheduled as a special meeting.
3. Special meetings, closed meetings, and emergency meetings may be scheduled and held in addition to the schedule of regular meetings. Notification requirements for special meetings, closed meetings and emergency meetings are governed by the Virginia Code.
 - a. For special meetings, the purpose and nature of the meeting will dictate whether public comment will be allowed. Time for public comment may or may not be allocated depending on the nature of the meeting and at the discretion of Council.
 - b. Closed meetings generally take place at 5:30 p.m. before the regular Council meeting. The only items Council may consider in closed meetings are those permitted by the Virginia Freedom of Information Act and identified in the motion convening the closed meeting.

B. Agenda and Materials

1. The City Manager shall ensure a proposed agenda is prepared for the Mayor's consideration nine business days before the meeting. The agenda of every regular Council meeting is approved by the Mayor. Any Council member desiring to add items to the proposed agenda should submit them to the City Manager and the Mayor ten business days before the meeting. Last minute submissions are discouraged but may be added to a regular meeting agenda, subject to a vote of

summarized by the quorum of Councilors physically present.

II. THE COUNCIL – MANAGER RELATIONSHIP

A. Per City Code Sec. 2-157 and in the interests of efficient management, if Council members seek answers from City staff, they should generally attempt to do so through the City Manager. However, a Councilor who has a question or wishes to request information from a department head or staff member (i.e., a question or request that requires only a few minutes for response) may contact those persons directly; however, in any event, when asking questions of staff, Council members should advise City Manager of same.

B. Members of the City Council, including the Mayor, shall represent the official policies or positions of the City Council to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, Council members shall explicitly state they do not represent their body or the City, nor will they allow the inference that they do. No member of City Council may purport to speak on behalf of the City on matters that have not been voted on by Council or that do not represent official City policy unless authorized by vote of the City Council~~Manager~~.

C. If a Councilor chooses to convene a ~~public~~ meeting that will require employs use of any City resources (including use of City-owned meeting spaces, expenditure of any City funds, -and staff attendance or support, City equipment or materials, etc.), the meeting must be a meeting of a “public body”, as defined in Va. Code §2.2-3701. The Councilor will advise the City Manager, the Clerk of Council and other Councilors of the date, time and purpose of the meeting. A Councilor may expend or commit expenditure of City funds in accordance with Section III, below.

D. If any Councilor convenes or plans to attend a meeting and to which any other Councilors may also be invited~~that might be attended by two or more Councilors~~, he or she shall advise the Clerk of Council and the City’s FOIA Officer ~~other Councilors~~ at least one day in advance of the time and place of the meeting.

E. Council members shall respect and adhere to the Council/Manager structure of Charlottesville City government as outlined in the Charlottesville City Code. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards and Commissions, and the public. Except as provided by the City Code, Council members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

Ref. City Charter, §5.01, §5.02

Ref. City Code §2-36; 2-39; 2-146 through 2-158

F. At the first meeting of January in each even numbered year, an Organizational Meeting shall be conducted to select the Mayor and Vice Mayor. The City Manager shall preside at the Organizational Meeting. The City Manager shall accept nominations from Councilors for the position of Mayor. The City Manager will then accept a motion to close the nomination process. After a motion to close the nomination process is approved by the Council, each Councilor will be provided five minutes to speak about the Mayoral nominees. After all Councilors have concluded their remarks, the Clerk of Council will then call the roll and each Councilor shall state their choice for the position of Mayor. At the conclusion of the Council’s Mayoral election, the City Manager shall accept nominations from Councilors for the position of Vice Mayor. The

City Manager will then accept a motion to close the nomination process. After a motion to close the nomination process is approved by the Council, each Councilor will be provided five minutes to speak about the Vice Mayoral nominees. After all Councilors have concluded their remarks, the Clerk of Council will then call the roll and each Councilor shall state their choice for the position of Vice Mayor. The Mayor and Vice Mayor shall be elected for terms of two years.

- G. At the first Council workshop in January of each even numbered year, the City Manager and Clerk of Council will coordinate a Council orientation for all City Councilors providing training and education on City operations and City Council Policies and Procedures.

H.III. CITY COUNCIL EXPENDITURES

- A. Each fiscal year, as part of Council's approval of the annual budget for the City, or as amended during the year, Council appropriates a certain amount of public funds for expenditure by "City Council/ Clerk of Council" and for "City Council Strategic Initiatives". Public funds appropriated in these categories may be expended by City Council in accordance with this Council Procedure document, as follows:

1. *Council-authorized purchases and expenditures*—public funds within City Council's budget appropriation may be expended for lawful purposes specifically approved by a vote of City Council, including, without limitation:
 - i. Charitable donations authorized by state statute;
 - ii. Compensation to individuals serving on a public body, as defined in Va. Code §2.2-3101 (task force, commission or other group—regardless of name) created to advise City Council on any matter; however, the Council action that establishes the advisory group must specifically authorize compensation to be paid and shall specify how compensation may be made (City-issued check, cash-equivalent (e.g., gift card), or other form of payment). (Ref. Va. Code §15.2-1411)
 - iii. Purchases of goods or services for a City Council meeting, function, or retreat, or purchase of office supplies, travel reservations for an individual councilor, etc., where such purchase is arranged by the Clerk of Council in her role as "decentralized buyer" for the City (for example: a facilitator for a Council workshop; catering and meals for a City Council meeting or retreat; consulting services for a City Council initiative, etc.).
 - iv. Payment for the expenditures listed in (i)-(iii), above, shall be arranged by the Clerk of Council, on behalf of City Council, using the credit card issued by the City to the Clerk or by other form of payment used by the City in the normal course of business. Individual councilors' credit cards shall not be used to pay for those expenditures.
2. *Reimbursement of individual councilors' and Council-staff members' City-business expenses*—pursuant to Va. Code §15.2-1414.6 each individual Councilor

is eligible to be reimbursed for any expenses incurred by such individual councilor for official City business (“Reimbursables”). Any such Reimbursables must be itemized and documented by stamped “paid” receipts to the extent feasible.

- i. Following are examples of authorized Reimbursables:
 - registration fees, meals and/or travel and parking expenses for attendance at official functions, general assembly sessions, or ceremonies/special events to which City Council, or an individual councilor, or a Council staff member, is invited or is required to attend;
 - individual dues for membership in organizations related to Council duties, and travel to seminars and meetings of those organizations (e.g., VML, Virginia First Cities, National League of Cities, etc.);
 - meals or refreshments for an individual Councilor himself/herself, while meeting with one or more constituents;
 - home office supplies for individual Councilors, such as copier paper, “cloud” storage for records, office furniture, pens, etc.

- ii. In lieu of incurring a Reimbursable expense and then submitting a reimbursement request to the City, any individual Councilor or Council staff may use a City credit card issued to such Councilor/ staff member to purchase Reimbursables. Requirements for documentation of purchases made with a City-issued credit card, as well as daily per-diems and mileage reimbursement rates, shall be the same as established by the City Manager/ Director of Finance for City employees.

- iii. No credit card issued to an individual City Councilor shall be used to purchase any goods, services or items other than Reimbursables. City Council, as a body, may approve exceptions to this rule (for example, City Council may vote to authorize an individual councilor who is leading an international trip to charge certain group expenses to the City credit card issued to that councilor).

- iv. If any individual Councilor desires to use a City credit card that is issued to her/ him, but is not sure whether or not a particular purchase constitutes a Reimbursable, as defined above, it shall be the responsibility of the Councilor to seek guidance (from Council, as a body, the Clerk of Council, the Finance Director, or the City Attorney’s Office) prior to using the credit card to make the purchase. Inquiry shall be made regardless of whether similar purchase(s) have previously been made prior to the adoption of these Council Rules and Procedures.

3. **Prohibited Expenditures, by Credit Card and Otherwise:** the following expenditures of City funds are PROHIBITED and are UNAUTHORIZED as to every individual Councilor and each member of Council’s staff.

No City funds shall be used to obtain, purchase, or pay for any of the following—whether the purchase or payment is made or obtained by means of a City-issued

credit card, expense reimbursement request, City-issued check, cash or cash equivalent (gift card) or otherwise:

- i. Alcoholic beverages,
- ii. Smoking products and paraphernalia,
- iii. Personal items and services (i.e., goods, services or items *other than* Reimbursables) for an individual councilor or any other individual,
- iv. Gifts or donations to any individual(s),
- v. Non-essential services and gratuities: mini-bar fees, service gratuities in excess of 20% for meals or transportation services, movies, personal telephone calls made from a hotel phone, etc.,
- vi. Vehicle fuel,
- vii. Cash (cash advances, wire transfers, money orders, credits for returned merchandise, etc.),
- viii. Any purchase or expenditure that exceeds funding that is available within City Council's fiscal year budget at the time of the purchase or obligation of City funds,
- ~~v~~ix. All other unauthorized purchases and expenditures—meaning any purchase or expenditure other than one specifically authorized within these Council Rules and Procedures.

B. Oversight of Council Expenditures

1. The Clerk of Council shall send monthly budget-to-actual expenditure reports to City Council, reporting all expenditures from City Council's budget for the preceding month (inclusive of credit card purchases), as well as the total amount of funds remaining to be spent during the fiscal year. It shall be the responsibility of City Council, as a body, to review the budget-to-actual expenditure reports and to address any apparent concerns as a group, with Council staff and each other.

~~1~~2. If any Councilor or Council staff member has a question about whether any credit card purchase or other expenditure complies with this Council Procedure, the question should first be presented to Council, as a body, for review and response (assistance from the Finance Director or City Attorney's Office may be requested, as needed). If the question cannot be resolved by Council, as a body, the matter shall be reviewed by the City Attorney in consultation with the City Manager and Director of Finance and/or reported to law enforcement for investigation.

Notwithstanding the foregoing: if Council as a body fails to promptly take action, or if there is cause to believe that a violation of the requirements of this Council Procedure is knowing or intentional and a financial loss in excess of \$300 (ref. City Code §2-45) will occur to the City while awaiting a response by Council, any City official or Council staff shall have a right to seek review of the matter by law enforcement.

3. Any City Councilor who uses a credit card, or otherwise obligates City funds to be expended, for purposes not authorized by this Council Procedure may be subject to civil fines, payment of reimbursement to the City, and/ or criminal prosecution (ref. City Code 2-45, City Code 22-33, and Va. Code 18.2-112).