



The City of Lowell

Rules of Procedure

for the

Lowell City Council

Adopted December 9, 2013

City of Lowell

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Rules of Procedure

Note: These rules of procedure were drafted with significant reliance on Suggested Rules of Procedure for Small Local Government Boards, Second Edition, by A. Fleming Bell, II.

Rule 1. Regular Meetings

The council shall hold a regular meeting on the second Monday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day. The meeting shall be held at Lowell City Hall, 101 West First Street and shall begin at 7:00 pm. A copy of the council's current meeting schedule shall be filed with the city clerk.

Comment: G.S. 160A-71 allows the city council to fix a time and place for regular meetings. If the council does not do so, it is required to meet at least once a month at 10 a.m. on the first Monday. Although the general law permits a council to fix a regular meeting time that is less frequent than once a month, many city charters require the council to meet at least monthly. G.S. 143-318.12(a) (part of the open meetings law) requires the council's schedule of regular meetings to be kept on file with the city clerk. If the schedule is revised, the new schedule must be on file for at least seven days before the first meeting held pursuant to it.

Rule 2. Special, Emergency, and Recessed [or Adjourned] Meetings

- (a) **Special Meetings.** The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) delivered to the mayor and each council member or left at his or her usual dwelling place; (2) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and (3) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. Even in such a case, the council shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

A special meeting may also be called or scheduled by vote of the council in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and (2) mailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the city clerk. Such notice shall also be mailed or delivered at least forty-eight hours before the meeting to each council member, and to the mayor if he or she was not present at that meeting. Only

those items of business specified in the notice may be discussed or transacted at a special meeting called in this manner, unless all members are present or those not present have signed a written waiver of notice, and the council determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

Comment: The first paragraph of Rule 2(a) combines the special meeting notice requirements of the open meetings law found in G.S. 143-318.12(b) with the notice requirements for special meetings called by the mayor, the mayor pro tempore, or any two council members under G.S. 160A-71(b)(1). While G.S. 160A-71(b)(1) only requires that the mayor and council members receive six hours' notice of special meetings called by the mayor, the mayor pro tempore, or two council members, this rule increases the advance notice requirement for the mayor and council members to forty-eight hours. This change recognizes that the council will want to be notified of special meetings called by a few of their number at least as far ahead of time as members of the news media and other persons on the board's "sunshine list" are notified (forty-eight hours) [see G.S. 143-318.12(b)(2)]. A discussion of procedures and possible fees for inclusion on the "sunshine list" can be found in G.S. 143-318.12(b)(2).

In accordance with the requirements of G.S. 160A-71(b)(1), only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. An optional provision of this rule establishes an additional requirement: no items may be added to the agenda for a special meeting called in this manner unless the council determines in good faith that the item to be added must be discussed or acted on immediately. This provision is based on the following reasoning.

The open meetings law requires that the purpose of a special meeting be stated in the meeting notice. While the law contains no explicit restrictions that would prevent the board from taking up unannounced subjects at a special meeting if the requirements of G.S. 160A-71(b)(1) are met, this rule recognizes that there is probably some implicit "good faith" limit on adding unannounced subjects to the agenda. Recognizing such a limit avoids surprise to absent council members and to others who might have attended the meeting, had they known that the additional item would be placed on the agenda. It is especially appropriate *not* to consider the extra item if it could be dealt with at another special meeting scheduled with the proper forty-eight hours' notice.

The second paragraph of Rule 2(a) deals with special meetings called or scheduled by vote of the council in open session during another duly called meeting under G.S. 160A-71(b)(2). Under the open meetings law, forty-eight hours' advance notice of the time, place, and purpose of special meetings called in this manner must be mailed to the news media and other persons on the council's "sunshine list," as required with any other special meeting. G.S. 160A-71(b)(2) generally requires no special notice to council members of a special meeting called during another meeting, since presumably all members were present or had the opportunity to be present at the meeting where the special meeting was called or scheduled. An optional provision of this rule allows the council to go a bit beyond what the law specifies by providing notice to members who were absent from the meeting where the special meeting was scheduled.

- (b) **Emergency Meetings.** Emergency meetings of the city council may be called only because of generally unexpected circumstances that require immediate consideration by the council. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the council.

(1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.

(2) An emergency meeting may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice, but only in either case if the council complies with the notice provisions of the next paragraph.

Notice of an emergency meeting under (1) or (2) shall be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request, which includes the newspaper's, wire service's, or station's telephone number, with the city clerk. This notice shall be given either by telephone or by the same method used to notify the mayor and the council members and shall be given at the expense of the party notified.

Comment: Rule 2(b) states the requirements of the open meetings law concerning emergency meetings [G.S. 143-318.12(b)(3)]. It adds to these requirements the two possible ways that emergency meetings might be called under G.S. 160A-71(b). The city council procedural statutes do not mention emergency meetings, so they must be considered a type of special meeting. The first method, described in G.S. 160A-71(b)(1), requires six hours' minimum notice to council members and the mayor. The second method, specified in G.S. 160A-71(b)(2), allows a meeting to be held whenever the entire council can be assembled or written waivers can be obtained from those not present, as long as the emergency meeting notice requirements are satisfied. The third method for calling special council meetings, see G.S. 160A-71(b)(3), is not allowed for emergency meetings. Because emergency meetings are by their nature unexpected, it is assumed that they will not be called during the course of another meeting, but will be scheduled when needed using one of the other two methods.

(c) Recessed or adjourned meetings. A properly called regular, special, or emergency meeting may be recessed or adjourned to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed or adjourned session of a properly called regular, special, or emergency meeting.

Comment: In Rule 2(c), note that a motion to recess (or adjourn) a meeting to a time and place certain must comply with the requirements of Rule 18 concerning procedural motions. See both the rule's general requirements and the particular requirements of Motion 2. It must be made in open session, since under the open meetings law the making of such a motion is not listed as an action that is permitted during a closed session. (See Rule 26 concerning closed sessions.) The open meetings law specifies that if proper notice was given of the original meeting, and if the time and place at which the meeting is to be continued is announced in open session, no further notice is required for the adjourned or recessed session. No notice requirements are imposed by the city council procedure statutes for adjourned or recessed sessions. As explained in the *Comment* to Rule 18, Motion 2, the terms "recess to a time and place certain" and "adjourn to a time and place certain" are both forms of the motion to adjourn, and are used interchangeably in these rules and in North Carolina law and practice. G.S. 160A-71(b1) states the

terms recess and adjourn as alternatives.

Rule 3. Organizational Meeting

On the date and at the time of the first regular meeting in December following a general election in which council members are elected, or at an earlier date, if any, set by the incumbent council, the newly elected members shall take and subscribe the oath of office as the first order of business. As the second order of business, the council shall elect a mayor pro tempore. This organizational meeting shall not be held before the municipal election results are officially determined, certified, and published in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes.

Comment: This rule states the requirements of G.S. 160A-68(a) and (b). An organizational meeting is held whenever new members are elected so that they can properly qualify for office by taking and signing the required oath. At the same meeting a mayor pro tempore (and a mayor if that person is not separately elected by the voters) is chosen. G.S. 160A-68(b) provides that the organizational meeting shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, or nonelection of one or more members, provided a quorum is present.

All public officers must take the oath of office set forth in Article VI, Section 7, of the North Carolina Constitution. Council members may also include in the oath to be taken, those provisions of the oaths set out in G.S. 11-7 and -11 that are different from the constitutional oath. Board members with questions about oaths should consult the board's attorney or the following Institute of Government publications: A. Fleming Bell, II, *Ethics, Conflicts, and Offices: A Guide for Local Officials* (Chapel Hill: Institute of Government, 1997); James Long and C. E. Hinsdale, *Oaths of Office for the Use of City, County, and State Officials in North Carolina* (Chapel Hill: Institute of Government, 1975); and Joseph S. Ferrell, "Questions I Am Frequently Asked: What Forms of Oath Should a Public Officer Take?" *Popular Government* 62 (Fall 1996): 43.

Who presides at the organizational meeting until the new mayor is sworn in is a question best resolved by local custom. In some cities the city clerk, manager, or attorney presides, and in others the retiring mayor presides until the new mayor is sworn in.

The incumbent council may fix the date and time of the organizational meeting. If it does not do so, the meeting is held on the date and at the time of the first regular meeting in December after the municipal election results have been certified under the state election laws. If the council uses the "default" time and place, G.S. 160A-68(a) may require that the organization of the council be the first thing that occurs "on the date and at the time" of the first regular meeting in December. While this rule permits the qualification of newly elected members and the election of a mayor pro tempore and (if necessary) of a mayor to be preceded by the completion of pending items of unfinished business by the incumbent council if this is the local custom, an incumbent council wishing to proceed in this manner should so specify in fixing the time and place for the organizational meeting. In this case, the swearing-in and election are the first items of "new business" on the agenda.

Rule 4. Agenda

- (a) **Proposed Agenda.** The City Manager shall prepare a proposed agenda for each meeting. Any council member may, by a timely written request, have an item placed on the proposed agenda. A request to have an item of business placed on the agenda must be received at least four working days before the meeting. In submitting a request to add an item to the agenda, Council members shall include a full and complete explanation of the item and reasonable supporting material for inclusion in the agenda packet.

An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is reasonable and available. Each council member shall receive a copy of the proposed agenda and the agenda package and they shall be available for public inspection and distribution or copying when they are distributed to the council members.

- (b) **Adoption of the Agenda.** As its first order of business at each meeting, the council shall, as specified in Rule 6, discuss and revise the proposed agenda and adopt an agenda for the meeting. If items are proposed to be added to the agenda of a meeting, the council may, by majority vote, require that written copies of particular documents connected with the items be made available at the meeting to all council members.

The council may by majority vote add items to or subtract items from the proposed agenda, except that (a) the council may not subtract items from the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two council members, unless those calling the meeting consent to the deletion, (b) the council may not add items to the proposed agenda stated in the notice of a special meeting called by the mayor, mayor pro tempore, or two council members, unless all members are present, or those who are absent sign a written waiver of notice, and (c) only business connected with the emergency may be considered at an emergency meeting. The council may add items to the proposed agenda of a special meeting only if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.

The council may designate certain agenda items "for discussion and possible action." Such designation means that the council intends to discuss the general subject area of that agenda item before making any motion concerning that item.

Comment to (a) and (b): Because of the volume and complexity of the matters they must consider, most councils use an agenda for their meetings. This rule describes the typical agenda preparation procedure for regular and some special council meetings. Councils should adapt it to accommodate the special circumstances that accompany emergency and many special meetings.

Two uses of agendas are common. Some councils use an agenda only to organize the materials they must consider and to give themselves an opportunity to study the issues before they meet. These councils generally allow last-minute additions to the agenda by general consent. This rule takes that approach. Note, however, that G.S. 160A-71(b)(1) requires that all council members be present or consent in writing before additions can be made to the subjects listed on the notice of a special meeting called by the mayor, mayor pro tempore, or two council members. Also, since the agenda of such a special meeting is set by those calling it, this rule requires those persons' consent before items may be deleted from that agenda. Note also that G.S. 143-318.12(b)(3) limits the agenda of emergency meetings to business connected with the emergency.

Other councils use their agenda to control the length of their meetings. In that case the council will often hold an agenda meeting or a work session before the regular meeting to ask questions and thoroughly explore the proposals that must be voted on at the regular meeting. Note that such an agenda meeting or work session is considered a meeting of the council for purposes of G.S. 160A-71 and the open meetings law and is subject to the regular or special meeting requirements in these rules. Generally, these councils take a stricter approach and do not allow late additions to regular meeting agendas unless an unexpected and pressing matter arises.

As noted above, at special meetings called by the mayor, mayor pro tempore, or two council members, additions may only be made to the agendas of special meetings if all members are present or those not present sign a waiver of notice. These rules also impose an additional requirement for the agendas of all special meetings, regardless of how they are called, because of open meetings law concerns. Under this approach, an item may be added to the agenda of a special meeting only if all members are present and the board determines in good faith that it is essential to discuss or act on the item immediately. This restriction avoids surprise and is consistent with the spirit of the open meetings law, although neither requirement is actually part of the law. See the statement of public policy underlying the law in G.S. 143-318.9. For further discussion of adding items to special meeting agendas, see the *Comment* to Rule 2(a).

Rule 4(a) requires that longer or more complex proposals be in writing and attached to the agenda, so that council members will have a clear idea of the issues with which they will be dealing. The council may choose what sorts of proposed orders, policies, regulations, resolutions, or other items it wishes to make subject to this requirement. The council may also require that copies of relevant documents be provided to all council members when additions to the agenda are proposed at the meeting.

Some councils also use an agenda package to provide background information about proposed agenda items to the council members. The use of such a package is optional under these rules.

City councils frequently desire to discuss an issue informally, attempting to reach a group consensus, before a formal motion is proposed. While standard parliamentary practice requires that a motion be made before any discussion can occur, conducting discussion first can be very useful to a small board such as a council. Such discussion may be especially important if the council does not hold agenda meetings or work sessions at which the members can discuss issues among themselves, before the more formal meetings at which the council generally takes action. This rule authorizes the practice of "discussing before moving" by permitting the council to designate particular agenda items "for discussion and possible action." If a motion is later made, discussion on the motion is then in order.

The city clerk or chief administrative officer may find it convenient to maintain a mailing list of interested parties who wish to receive a copy of the proposed agenda and/or agenda package regularly. Since the background materials included with the proposed agenda in the agenda package may be quite voluminous, the council may wish to charge those receiving the full agenda package for the cost of reproduction. At the very least, the council should make provision for the public to inspect and copy the agenda package in the city offices, since the agenda package is generally a matter of public record open to public inspection.

(c) Consent Agenda. The council may designate a part of the agenda as the "consent agenda." Items shall be placed on the consent agenda by those preparing the proposed agenda if they are judged to be noncontroversial and routine. Any member may remove an item from the consent agenda and place it on the regular agenda while the agenda is being discussed and revised prior to its adoption at the beginning of the meeting. All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the motion and vote on each item.

Comment to (c): Many councils use a consent agenda as a device to handle routine business more quickly. The persons preparing the proposed agenda group together on the agenda those items that they think will be noncontroversial, routine, and unopposed. As a general rule, ordinances, controversial items, matters in which citizens may be interested, and matters of great substance should probably not be included on the consent agenda.

The council reviews the "consent agenda" as part of its review of the proposed agenda at the beginning of the meeting. Each member is free to remove items from the consent agenda to the regular agenda. A member may wish to do so if, for example, he or she would like to debate the proposal or vote against the item.

Those items remaining on the consent agenda are all handled with a single motion and vote, which is legally a motion and vote on each one of them. In keeping with this understanding, the minutes should reflect separate motions and votes on each of the consent items. For more information on consent agendas, see the publication "Consent Agenda," available from the International Institute of Municipal Clerks, 1206 North San Dimas Canyon Road, San Dimas, CA 91773, (909) 592-4462, or on loan from the Institute of Government's library.

(d) Open Meetings Requirements. The council shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number, or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the council to understand what is being deliberated, voted, or acted on. The council may, however, deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda—sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on—are available for public inspection at the meeting.

Comment to (d): The last paragraph of this rule paraphrases the open meetings law's restrictions on acting by reference to agendas or other items [see G.S. 143-318.13(c)].

Rule 5. Scheduled Public Comments

Any individual or group who wishes to address the council shall make a written request

to be on the agenda to the City Clerk or City Manager. The request must state, in reasonable specificity, the purpose for addressing the Council. In adopting the agenda the council shall determine whether it will hear the individual or group. Individuals or groups addressing the council under Scheduled Public Comments or Unscheduled Public Comments shall be provided five minutes in which to speak unless the Council votes to extend the five minute period for a specific individual or group.

Comment: The council may decide as a matter of general policy to set aside part of each meeting for individuals or groups to address the council, although it is not legally required to do so. This rule allows any individual or group to be placed on the proposed agenda, but reserves to the council the right to decide whether to hear its comments. If the council chooses to open the meeting for public comments on a particular issue, it must be careful not to censor individuals or groups based on their point of view on that issue, in order to avoid violating the speakers' constitutional right to freedom of speech. For further information on public comment during board meetings, see A. Fleming Bell, II, John Stephens, and Christopher M. Bass, "Public Comment at Meetings of Local Government Boards," Parts One and Two, *Popular Government* 62 (Summer 1997): 3-14 and (Fall 1997): 27-37, respectively.

Rule 6. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- Adoption of agenda (includes confirmation or setting of the consent agenda)
- Approval of the minutes
- Scheduled Public Comments
- Public hearings
- Unfinished business
- New business
- Unscheduled Public Comments
- City Attorney Report
- City Manager reports
- Council reports
- Adjourn

By general consent of the council, items may be considered out of order.

Comment: Note that the suggested order of business places public hearings and administrative reports early in the meeting. These are the main items that involve citizens and administrative officials who may not need or wish to be present for the entire meeting. The council may also decide to place general public comment earlier on the agenda, if it reserves part of each meeting for this purpose (see Rule 5). Unfinished business under these rules consists of matters that are carried over from a previous meeting that was adjourned before the council completed its order of business and matters that were specifically postponed to the present meeting [see Rule 18(b), Motion 11].

Rule 7. Office of Mayor

The mayor shall preside at all meetings of the council but shall have the right to vote only when there is a tie. In order to address the council, a member must be recognized by the mayor.

The mayor or other presiding officer shall have the following powers:

- (a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- (b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (c) To entertain and answer questions of parliamentary law or procedure;
- (d) To call a brief recess at any time;
- (e) To adjourn in an emergency.

A decision by the presiding officer under (a), (b), or (c) may be appealed to the council upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order immediately after a decision under (a), (b), or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.

Comment: G.S. 160A-69 provides that the mayor shall have the right to vote only in cases where there are an equal number of votes in the affirmative and in the negative, unless the mayor is elected by the council from among its membership and the city charter is silent on the matter. In that case, the mayor has the right to vote on all matters. Many cities have charter provisions dealing with the mayor's voting rights; a special charter rule on mayoral voting takes precedence over the general rule in G.S. 160A-69.

If the mayor is elected by the council, he or she may serve either for a fixed period of time, such as one year, or at the council's pleasure. The city charter normally has a provision on this point as well.

The mayor or anyone presiding in the mayor's place is given substantial procedural powers by this rule. Nevertheless, those powers are not absolute. Under this rule and Rule 18, Motion 1, any council member is entitled to make a motion to appeal to the other members concerning the presiding officer's decisions regarding motions, decorum in debate, and most other procedural matters. Such a motion replaces *RONR*'s "question of order and appeal."

There are two exceptions to this right of appeal. A mayor or other presiding officer may adjourn without the board's vote or appeal in an emergency, and he or she may also call a brief recess without a vote at any time. (The latter might be necessary to "clear the air" and thus reduce friction among the members.) *RONR*, in contrast, allows a recess to be taken only with the approval of the members.

Rule 8. Office of Mayor Pro Tempore

At the organizational meeting, the council shall elect from among its members a mayor

pro tempore to serve at the council's pleasure. A council member who serves as mayor pro tempore shall be entitled to vote on all matters and shall be considered a council member for all purposes, including the determination of whether a quorum is present. In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. If the mayor should become physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare that the mayor is incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When a mayor declares that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties. If both the mayor and mayor pro tempore are absent from a meeting, the council may elect from among its members a temporary chairman to preside at the meeting.

Comment: This is G.S. 160A-70, paraphrased.

Rule 9. When the Presiding Officer Is in Active Debate

If the mayor or other presiding officer becomes actively engaged in debate on a particular proposal, he or she shall designate another council member to preside over the debate. The mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

Comment: Good leadership depends, to a certain extent, on not taking sides during a debate. On a small board this may not always be feasible or desirable; yet an unfair advantage accrues to the side whose advocate controls access to the floor. This rule is designed to insure even-handed treatment to both sides during a heated debate. Ordinarily if the mayor is leading the meeting, he or she should ask the mayor pro tempore to preside in this situation, but if that person also engaged in the debate, the mayor should feel free to call on some other council member in order to achieve the purpose of this rule.

Rule 10. Action by the Council

The council shall proceed by motion, except as otherwise provided for in Rule 4 and in Rule 31. Any member may make a motion.

Comment: Under standard parliamentary practice, a motion must be on the floor before a board may proceed with discussion or action. Rule 10 allows two variations, one based on Rule 4 and the other on Rule 31.

Rule 4 allows items to be placed on the agenda "for discussion and possible action." General discussion of the agenda item may precede the making of a motion. See Rule 4 and the accompanying *Comment*.

Rule 31 specifies that the council is to make appointments using an election method, rather than by motion, in order to allow all council members to express their preferences. This method applies both to internal council appointments and to appointments to other bodies. The procedures to be

followed are explained in Rule 31 and the accompanying *Comment*.

In those municipalities where the mayor may vote only to break a tie, he or she should probably not make motions. The reason for this rule is that legally the mayor is not part of the decision-making body unless a tie vote occurs. Traditionally, if a nonvoting mayor wishes to have a motion made, instead of making it personally, he or she states, "The Chair will entertain a motion that . . ."

Rule 11. Second Not Required

A motion shall not require a second.

Comment: The philosophy underlying the requirement of a second is that if a proposal does not have at least some minimum level of support, it is not worth the time necessary to consider it. In a group of 100 persons, for example, requiring a second ensures that at least 2 percent of the group wishes to consider the proposal. On a five-member council, on the other hand, a proposal supported by one member already has the backing of 20 percent of the council membership. If a council is small, efficient use of the council's time is not impaired by allowing consideration of a proposal that initially has the support of only one member. If a council wishes to retain the requirement of a second, however, it is free to do so.

This rule is consistent with the *RONR* concept that motions need not be seconded in meetings of smaller groups (*RONR* Sec. 48, p. 477). Moreover, even if a board uses seconds, *RONR* notes that after a debate has begun or, if there is no debate, after any member has voted, the lack of a second has become immaterial and it is too late to make a point of order that the motion has not been seconded (*RONR* Sec. 4, p. 36).

Rule 12. One Motion at a Time

A member may make only one motion at a time.

Rule 13. Substantive Motions

A substantive motion is out of order while another substantive motion is pending.

Comment: This rule sets forth the basic principle of parliamentary procedure that distinct issues will be considered and dealt with one at a time, and a new proposal may not be put forth until action on the preceding one has been concluded.

RONR does not refer to substantive motions as such; instead it refers to *main* or *principal* motions. The term *substantive motion* is used here to underscore the distinction between this type of motion and the various procedural motions listed in Rule 18. Basically, a substantive motion is any motion other than the procedural motions listed in Rule 18. A substantive motion may deal with any subject within the council's legal powers, duties, and responsibilities. Indeed, since Rule 10 provides that the council shall proceed by motion, the substantive motion is the only way the council can act, unless it has adopted a special rule to deal with a particular situation. (See, for

example, the provisions of Rule 31 on appointments.) The procedural motions detailed in Rule 18 set forth the various options the council has in disposing of substantive motions.

Rule 14. Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 27 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Comment: In a few instances, these rules require a vote equal to two-thirds of the entire membership of the council for adoption of a particular motion. Also see Rule 23 concerning the number of votes necessary to adopt an ordinance, adopt a change in a zoning ordinance when a protest petition has been received, or approve a contract. Other extraordinary voting requirements imposed by particular statutes are not specified in these rules. The city attorney should be consulted as questions arise.

Rule 15. Voting by Written Ballot

The council may choose by majority vote to use written ballots in voting on a motion. Such ballots shall be signed, and the minutes of the council shall show the vote of each member voting. The ballots shall be available for public inspection in the office of the city clerk immediately following the meeting at which the vote took place and until the minutes of that meeting are approved, at which time the ballots may be destroyed.

Comment: The open meetings law allows public bodies such as city councils to use written ballots, *so long* as they follow the procedures set out in G.S. 143-318.13(b) and paraphrased in this rule.

Rule 16. Debate

The mayor shall state the motion and then open the floor to debate on it. The mayor shall preside over the debate according to the following general principles:

- (a) The maker of the motion is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Comment: None.

Rule 17. Ratification of Actions

To the extent permitted by law, the council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Comment: Ratification of actions taken on the council's behalf but without its prior approval is permitted under these rules, to the extent that such after-the-fact approval of actions is legally allowed. The principle behind the motion to ratify is that an assembly may subsequently approve that which it could have authorized. This rule treats the motion to ratify as a *substantive* proposal rather than as a *procedural* motion, since a ratification is in effect an after-the-fact substantive action by the council concerning something that was done without council approval when advance authorization should have been obtained.

Rule 18. Procedural Motions

(a) **Certain Motions Allowed.** In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

Comment: Rule 18 reflects substantial departure from the rule in *RONR*. Each procedural motion in *RONR* was reviewed to determine whether it was appropriate for use by a small board; substantial modifications and deletions were the result. The following enumeration of procedural motions is exhaustive; if a procedural option is not on the list, then it is not available.

Procedural motions are frequently used to "act upon" a substantive motion by amending it, delaying consideration of it, and so forth. They are in order while substantive motions are pending as well as at other times.

In addition, as in *RONR*, several procedural motions can be entertained in succession without necessarily disposing of the previous procedural motion. The order of priority establishes which procedural motion yields to which—that is, which procedural motion may be made and considered while another one is pending.

The procedural motions are summarized in table form in the appendix. Note that the appended table is intended only to provide a quick reference guide to the motions; this rule and its comments should be consulted for a discussion of how each procedural motion is used.

(a) **Order of Priority of Motions.** In order of priority (if applicable), the procedural motions are

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the council, as specified in Rule 7. This appeal is in order immediately

after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Comment: Rule 7 allows the ruling of the presiding officer on certain procedural matters to be appealed to the council. This appeal must be made as soon as the presiding officer's decision is announced, so this motion is accorded the highest priority. See Rule 7 and its *Comment* for further discussion of this motion.

Motion 2. To Adjourn. This motion may be made only at the conclusion of council consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess [or adjourn] to a time and place certain shall also comply with the requirements of Rule 2(c).

Comment: This motion differs from the *RONR* motion to adjourn in several respects. The *RONR* motion to adjourn is not debatable or amendable and can be made at any time, thus interrupting substantive deliberations. Here, however, since the number of members is small and procedures are available to limit debate, Motion 2 allows both debate and amendment, but specifies that the motion is in order only when consideration of a pending matter has concluded.

If the council wants to adjourn before completing final action on a matter, it must, prior to adjourning, first temporarily conclude its consideration of that matter. This is done with one of three motions: to defer consideration of the matter, to postpone the matter to a certain time or day, or to refer the matter to a committee. Only as a last resort should the council use a motion to suspend the rules, in order to allow the motion to adjourn to interrupt deliberation on the matter.

Another adjournment option is to recess (or adjourn) the meeting to reconvene at a specified time and place, in accord with Rule 2(c). The motion to recess or adjourn to a time and place certain is a form of the motion to adjourn. As explained in the *Comment* to Rule 2(c), various North Carolina General Statutes and North Carolina practice refer both to the terminology "recess to a time and place certain" and the phrase "adjourn to a time and place certain," [see, for example, G.S. 160A-71(b1) and 143-318.12(b)(1)]. Thus both "recess" and "adjourn" are provided here as options. The motion has the same meaning regardless of the option chosen.

Motion 3. To Take a Brief Recess.

Comment: This motion, which allows the council to pause briefly in its proceedings, is similar to the motion to recess under *RONR*. To avoid confusing this motion with the motion "to recess to a time and place certain," which is a form of the motion to adjourn under these rules and in North Carolina practice [see Rule 18(b), Motion 2 above], Motion 3 is a "motion to take a brief recess" rather than a "motion to recess." Since the number of council members is small, and procedures are available to limit debate, debate is allowed on this motion. A motion to take a brief recess is in order at any time except when a motion to appeal a procedural ruling of the presiding officer or a motion to adjourn is pending. Under these rules, the mayor also has the power to call a brief recess at any time [see Rule 7(d)].