

Code of Meeting Procedure



City of Derby, Kansas

How to Aid Discussion by Asking the Right Questions

Questions are one of the most important tools you can use to obtain information, focus the group and facilitate decision making. Here are some samples:

Asking of Colleagues

- What do you think about this item?
- What do you think the proposed action will accomplish?
- Would you please elaborate on your position?
- What results are we looking for?
- How does this fit into our priorities?

Asking Staff

- What alternatives did you consider?
- What are we trying to accomplish with this?
- What are the benefits and drawbacks?
- Would you please explain the process?

Asking of the Public

- How will this proposal affect you?
- What are your concerns?
- What other ways can you suggest for solving the issue?

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APPLICATION & AMENDMENT

For those matters not covered by these rules, the procedure shall be as decided by a majority vote of the Governing Body. Adopted rules may be amended by a majority vote of the Governing Body. The rules may not be suspended by the Governing Body during any meeting.

Adopted by the Governing Body on February 12, 2019

DEFINITIONS

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Section 1. Charter Ordinance. An ordinance exempting the City from a state statute; may also provide a local substitute for the state statute.

Section 2. City Council. A body that includes all members of the Governing Body, as defined herein, other than the Mayor.

Section 3. Governing Body. The term Governing Body includes the Mayor and Council.

Section 4. Motion. A course of action formally proposed to the Governing Body by one of its members, including the Mayor.

Section 5. Ordinance. A local law enforced with the full force and authority of the City.

Section 6. Quorum. A majority of the members of the City Council. Quorum (5) is required for the Governing Body to take binding action.

Section 7. Resolution. A legislative act less formal than an ordinance and not having the force of law, typically expressing the opinion or mind of the City Council or Governing Body, and generally dealing with matters of a special or temporary character or establishment of administrative policy.

MEETINGS

Section 8. Regular Meetings. Regular meetings of the Governing Body will be held on the second and fourth Tuesday of every month at 6:30 p.m., unless changed by the Governing Body. Pursuant to the Kansas Open Meetings Act (KOMA), all meetings except for executive sessions are open to the public.

Section 9. Special Meetings. Special meetings will be held only for a specific purpose. Special meetings may be called by motion, second, and majority vote of the Governing Body during a regular meeting. Special meetings also may be called by the Mayor or Council President; in such case, all members of the City Council must sign a Waiver of Notice. The date, time, and purpose of a special meeting must be specified. Public notification of the date, time, and purpose of special meetings is given pursuant to the KOMA.

Section 10. Workshop. An informal meeting of the Governing Body. No agenda is required and no binding action may be taken. The Mayor chairs the workshop, or the Council President chairs in the Mayor's absence.

Section 11. Public Forum. The Public Forum period provides the public an

opportunity to address the Council on any subject relevant to the City government and its policies, operations, or services. Not all meetings will include a Public Forum.* When a Public Forum is offered, each person addressing the Council shall provide his or her name for inclusion in the minutes of the meeting. All public comment must be made from the podium. Each presentation, whether by an individual or group, shall be limited to five (5) minutes. Upon request by the individual or group making the presentation, an additional three (3) minutes may be authorized by motion, second, and majority vote of the Governing Body.

** The Public Forum period is not intended as a venue for introduction or endorsement of candidates for public office or as a venue for degrading or defamatory comments directed at or concerning a person, business or organization. Any person who abuses the Public Forum may be ruled out of order and directed to cease his or her presentation and leave the podium.*

AGENDA

Section 12. Agenda. Prior to each regular and special meeting, the agenda will be available to the public via the City's website. Using the "Keep Me Informed" function on the website, people can be notified of when the agenda is posted. The agenda is usually available on Thursday afternoon for the meeting the following Tuesday but may on occasion be delayed due to unforeseen events. Upon request, paper agenda packets will be delivered to members of the Governing Body.

Section 13. Setting Agenda. The City Manager is charged with setting the agenda.

Section 14. Agenda Items. Any Governing Body member or staff member may request that an item be placed on the agenda. Members of the public may not place an item on the agenda but may have a Governing Body member sponsor an item.

Section 15. Order and Content of Agenda Items. Each agenda item shall be reviewed in the following order: Staff report; Applicant input (if applicable); and Public input (if applicable). Staff reports should include Background information on the topic; Fiscal impact and sustainability information; Legal considerations (if applicable); Policy considerations (if applicable); Applicable reference material; and Action Options or Recommendation(s). Staff reports shall be drafted to be as objective and unbiased as possible.

Section 16. Changes to Agenda. Off-agenda items may be added to and scheduled agenda items may be removed from the agenda at the beginning of a regular meeting by motion approved by a majority of City Council members present and voting. No items may be added to the agenda of a special meeting. Generally, the Governing Body will vote only on items contained in the agenda as printed and occasionally may find that a vote on off-agenda items is warranted.

Section 17. Order of Business. At the hour appointed for the meeting, the Mayor shall call the meeting to order. The Council President shall chair the meeting in the absence of the Mayor. Upon determining that a quorum is present, the Governing Body shall

proceed to business, which shall be conducted in the following order (although exceptions may be made occasionally):

- Call to Order
- Flag Salute
- Invocation
- Roll Call
- Consideration of Minutes
- Public Forum
- Presentations
- New Business
- Consent Agenda
- Executive Session
- Adjournment

Section 18. Consent Agenda. By request of a Governing Body member and with the approval of the City Council by majority vote, any item may be removed from the consent agenda and considered separately. The remaining consent agenda items may be acted upon as one item.

Section 19. Order of Business, Suspended or Amended. By a majority vote of the City Council, the order of business may be amended to add or delete sections or to change the order of business as appropriate, or may be suspended in its entirety to consider other matters. Executive sessions may be held at any time during a meeting.

MOTIONS

Section 20. Notice to Speak. Governing Body members should notify the chair of the desire to speak either by electronic message or raised hand to be recognized by the chair.

Section 21. Second. All motions require a second before being considered by the Governing Body.

Section 22. Debate. All motions are debatable unless otherwise noted in the section governing that motion.

Section 23. Substantive Motion. Only one main substantive motion may be pending on the floor at any one time. A substantive motion must be withdrawn or advanced to vote before another substantive motion is introduced.

Section 24. Substitute Motion; Prohibited. Substitute motions are prohibited. Substantive motions must be withdrawn or advanced before another substantive motion is introduced.

Section 25. Motion to Amend. A motion to amend is in order when the proposal is to change, add, or delete words from the main substantive motion. If the motion is to amend a document before voting on its adoption, it is advisable to reduce the change to writing, but it is not required if all members of the Governing Body understand the

amendment. A vote on an amendment is not a final vote on the underlying substantive motion. To pass the underlying substantive motion, either as presented or as amended, requires a vote.

Section 26. Motion to Pass an Ordinance. All ordinances of the City shall be considered at a public meeting of the Governing Body. No ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (See Sections 40-43 for ordinance voting requirements.)

Section 27. First & Second Readings. Ordinances advancing substantially new policy shall be introduced at one Council meeting and acted upon at another Council meeting. Exceptions may be made by majority vote of the Council.

Section 28. Motion to Refer or Table. If the Governing Body deems it appropriate, it may refer an ordinance, resolution, contract or other matter back to staff or to a committee, board or other appropriate body for further review and consideration or to table the matter. Such motion may or may not contain a certain time for the item to be returned to the Governing Body. A motion to refer or table is not debatable.

Section 29. Motion to Reconsider; Prohibited. Motions to reconsider are prohibited. Any Governing Body member may make a new substantive motion on a matter previously considered by the body.

Section 30. Motion to Call the Previous Question. This motion is not debatable and, if passed by a majority of the Governing Body, calls for an immediate vote on the substantive motion. This motion requires a vote.

Section 31. Motion to Recess to Executive Session. Closed (executive) sessions may be called for certain reasons. The most common topics are the following:

- Personnel matters of non-elected personnel;
- Consultation with attorney on matters deemed to be of attorney-client privilege;
- Data relating to financial affairs or trade secrets of second parties;
- Preliminary discussions about acquisition of real estate;
- Discussions about security matters; and
- Other lawful purposes pursuant to the Kansas Open Meetings Act.

The motion to recess to executive session shall be made as follows: "I move to [take a short break and then] recess to executive session for _____ (statement describing the subject to be discussed and the statutory justification for the executive session) and reconvene the open meeting here in the Council Room at __: __ p.m." The motion may also state who is to be present in the executive session. This motion must be made, seconded and carried, and the complete motion shall be recorded in the minutes of the meeting. Upon returning from executive session, the Council President (or another member) reports the time returned and that no binding action was taken.

Section 32. Motion to Adjourn to a Later Date and Time. If the Governing Body is

unable to complete its agenda during the time allotted for a regular or special meeting, the meeting may be adjourned to another time and date. The motion shall state the time, place and date for the meeting to reconvene. If the motion is adopted, the meeting is adjourned to the specified time, place and date.

Section 33. Appeal from the Decision of the Chair. When a City Council member believes the decision of the chair is contrary to adopted procedure or law, he/she may appeal the decision of the chair to the City Council at-large. The appealing member may state, "Honorable Mayor (or chair), I appeal from the decision of the chair." The chair may then state, "The decision of the chair is appealed from." Following debate of the appeal, the question, when put, may be in the following form: "The question is, *shall the decision of the chair stand as the decision of the Council?* All in favor say aye. ... All opposed say nay." A majority vote in the negative is required to overrule the decision of the chair. If the decision of the chair is sustained, no further action is taken. If the decision of the chair is not sustained, the Governing Body goes forward with a discussion of the motion or other matters pending before the body.

VOTING

Section 34. Form of Vote. All votes shall be by either a voice vote or, in the alternative, the chair may request that a vote be by "show of hands," or by a roll call vote performed by the City Clerk. No vote shall be by secret ballot.

Section 35. Voting Order. Each time a roll call vote is requested or required during a meeting, the City Clerk will rotate the voting order until each voting member of the Governing Body has had the opportunity to vote first.

Section 36. Division. The Mayor or any member may request a formal division of vote. At the discretion of the Mayor, division may be by either a poll of each member or a show of hands.

Section 37. Duty to Vote. Members of the Governing Body have a duty to vote, but may abstain because of a conflict of interest or other conflict that appears to make voting on an issue improper. Any member who abstains must state, for the purpose of its inclusion in the minutes, the reason for the abstention. For all purposes other than adoption of an ordinance an abstention counts as a vote for the prevailing side.

Section 38. Recording. Upon final passage of a matter, the vote shall be recorded in the minutes.

Section 39. Votes; Non-Ordinance Matters. Unless otherwise specifically required by law, the adoption of resolutions and other motions shall be by a majority of those present. An abstention shall be counted with the prevailing side.

Section 40. Same; Ordinary Ordinance. Adoption of an ordinary ordinance requires five (5) affirmative votes of the Governing Body, and the vote shall be taken by roll call.

Section 41. Votes; Mayor. The Mayor is a member of the Governing Body, and votes on charter ordinances, employment matters of the City Manager and Municipal Judge, and other matters as prescribed by state law (i.e., zoning changes). The Mayor may also vote to break a tie when the Governing Body is equally divided on a vote.

Section 42. Same; Ordinary Ordinance: Mayor's Veto. The Mayor may veto any ordinance passed by the Governing Body, with the exception of appropriation ordinances and ordinances on which the Mayor casts the deciding vote, on or before the next regularly scheduled meeting. Ordinances not signed or vetoed by the Mayor take effect without the Mayor's signature. Any ordinance vetoed by the Mayor may be passed over the veto by a vote of six Governing Body members. The Council President, acting in the absence of the Mayor, is not authorized to ~~sign or~~ veto ordinances.

Section 43. Same; Charter Ordinance. Adoption of a charter ordinance requires two-thirds (6 of 9) affirmative votes of the Governing Body. The Mayor is considered a member of the Governing Body and votes on charter ordinances.

Section 44. Voting; Planning Commission Items. Approval of an item recommended by the Planning Commission requires a simple majority (5 votes) of the Governing Body (Council and Mayor). If the Planning Commission sends no recommendation to the Governing Body, the Governing Body should consider such inaction as a negative recommendation. To override a negative recommendation, six (6) affirmative votes of the Governing Body are required. Seven (7) votes are required to overcome a valid protest petition.

Section 45. Same; Confirmation of Mayoral Appointment to Non-Elected Position. The Mayor may cast the deciding vote when the Governing Body is equally divided on a vote for mayoral appointment to a non-elected position.

Section 46. Same; Confirmation of Mayoral Appointment to Elected Position. In the event the mayoral nominee does not receive a majority vote of the Council, the vacancy shall be filled by appointment made by the remaining Council members.

Section 47. Consensus Vote. When a formal motion or action is not required on a Governing Body opinion or guidance to the staff, a consensus voice vote will be taken. The Chair will state the opinion or guidance and each Governing Body member shall state his/her position by saying yes or no.

Ethics

Conflict of Interest

If a Governing Body member has a conflict of interest on a matter before the Governing Body, right after the City Clerk reads the title of the agenda item in question, that person should publicly announce the conflict and excuse himself/herself from the Council Room until the matter has been addressed by the remaining Governing Body members.

If there is a question of real or perceived conflict of interest, the affected Governing Body member should contact the City Manager and City Attorney for an interpretation of the situation prior to the meeting.

Keeping Out of Trouble

The following are some common areas where you can get in trouble by violating state law or City code:

- Violating the Kansas Open Meetings Act (KOMA).
- Violation occurs when five or more Governing Body members meet in person, by telephone, via email, using social media, or by any other means of interactive communication for the purpose of discussing the business or affairs of the public body or agency.
- Conducting a “serial meeting” has been a particular concern under KOMA. A serial meeting involves successive interactive communications collectively involving a majority of the membership, such as by email or using social media, sharing a common topic of discussion concerning public business and intended by any participant to reach agreement on a matter that would require binding action.
- Not disclosing a conflict of interest during Governing Body deliberation or refraining from participating in discussion and/or from voting on something with which you have a conflict of interest.
- Disclosing information discussed in executive session to any person not present in the executive session.
- Not disclosing *ex parte* communications.
- Using your office for personal gain or profit.

If you're not sure what to do, ask:

Is it legal?

Is it ethical?

Is it the right thing to do?

