

RESOLUTION NO. 12-878-R

A RESOLUTION ESTABLISHING COUNCIL RULES OF PROCEDURE GOVERNING THE PROCESS TO BE FOLLOWED IN THE CONDUCT OF CITY BUSINESS; AND RESCINDING RESOLUTION 05-714-R.

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF TALENT, OREGON.

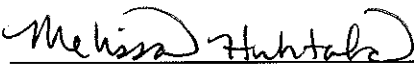
WHEREAS, ORS 192.610-192.710 establishes the framework for the conduct of any public meeting held by a city council in the State of Oregon;

WHEREAS, the City Council of the City of Talent desires to define in more detail how the council conducts its business and the procedures to follow in that process;

NOWHEREFORE, BE IT RESOLVED that the Common Council of the City of Talent hereby adopts the attached Council Rules of Procedures to be followed in the conduct of City business at all duly noticed meetings of the council.

Duly enacted by the City Council in open session on April 18, 2012 by the following vote:

AYES: 5      NAYS: 0      ABSTAIN: 0      ABSENT: 1



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Melissa Huhtala, City Recorder and Custodian of City records

## COUNCIL RULES OF PROCEDURE

### Section 1, Meeting of Council.

A. Compliance. All meetings of the City Council shall comply with the Oregon State Public Meetings Law **ORS 192.610-192.690**, which is hereby incorporated by reference into these rules.

B. Meeting Schedule. The City Council will meet in regular session of the first and third Wednesday of each month unless the Council cancels or reschedules the meeting. If either of these Wednesdays are a legal holiday, the council shall meet on Tuesday of that week.

C. Time of Meeting. Regular sessions will convene at 6:30 p.m. All regular sessions will be adjourned not later than 9:30 p.m. unless extended by a vote of the members present at the meeting.

D. Special Meetings. The Mayor or three or more councilors may call a special meeting. Twenty-four (24) hour notice shall be given to the remaining councilors, the City manager and the public. Public notice shall be given by posting said notice on the bulletin board outside City Hall. The notice shall specify the meeting time and place and a description of the business to be transacted at the meeting. If a special meeting is called to deal with an emergency involving danger to life or property, notice is not required. No general legislation may be considered at a special meeting except for which the meeting is called.

E. Executive Sessions. An executive session (a meeting closed to the public) may be held in accordance with the Public Meetings Law. The mayor may call any regular, special or emergency meeting into executive session by citing the specific provision of ORS 192.660, which authorizes the session. Representatives of the news media shall be allowed to attend executive sessions. The Mayor shall instruct any media representatives present not to disclose the substance of any discussion during executive session. No final decision shall be made in executive session. To make a final decision, the presiding officer shall either call the meeting into open session or place the decision on the agenda of a future open session. Executive Sessions will generally be scheduled at the end of a Council meeting to encourage public participation on other agenda items.

F. Study Session. Study sessions of the council shall be held in accordance with Oregon Public Meetings Laws, and shall be called by either the Mayor, City Manager or three councilors whenever circumstances require such a session. No votes, or binding decisions can be made at these study sessions. The presiding officer shall determine whether the public will be allowed to participate in discussions at these study sessions. **Study Sessions will be held as needed on the 5<sup>th</sup> Wednesday of the month or before Regular Council Meeting times may vary depending on the topic.**

G. Attendance. Councilors shall inform the City Manager, **City Recorder** or Mayor if they are unable to attend any meeting. Additionally, the Mayor shall inform the Council President, as well as the City Manager, regarding any absence by the Mayor.

## **Section 2. Agenda.**

The City Manager shall prepare an agenda of the business to be presented at a regular council meeting. The items on the agenda should follow the formal order of business prescribed elsewhere in these rules. The City Manager, Mayor, council members or the public may request that a matter be placed on the agenda. The City Manager shall have the discretion of placing an item on the agenda for the upcoming meeting or a subsequent meeting because of time constraints or time needed for compilation of materials. Requests for placement of an item on the agenda must be received by the City Manager by 5:00 p.m. on the Wednesday prior to a regularly scheduled meeting.

The City Manager, the Mayor, or any council member, subject to approval by a majority of the council present at the meeting, may add an item to the agenda at the beginning of any meeting.

## **Section 3. Minutes**

A. Written minutes of all open regular and special meetings shall be prepared by a person designated by the City Manager, and shall be approved by the Council at the next meeting and made available for public inspection once approved. The City Recorder and the person taking the minutes shall sign the minutes after they have been approved by the City Council. All meetings shall be tape-recorded and the tapes shall be kept for a period of two years.

B. Written minutes shall include the names of all councilors present, all motions, Resolutions, orders, ordinances and measures proposed and their disposition, the results of all votes, recording by name of each Council voting in the negative unless the vote is unanimous, the substance of the discussion of any matter and references to any documents discussed.

## **Section 4. Order of Business.**

A. Regular meetings shall be conducted in the following order of business, subject to the right of the Mayor, with Council consent, to alter the order of business:

1. Call to Order/Roll Call
2. Public Hearings. All public hearings will be subject to notice requirements as listed in other City ordinances and state law, unless there are none, and then a Notice of Public Hearing shall be placed in a local newspaper a minimum of one time within the 7 days prior to the meeting. A copy of this Notice of Public Hearing shall also be posted at City Hall, Bulletin Board and Tark's during that time.

The purpose of public hearings is to: 1) provide input to the Council in the form of information and opinions from affected parties and citizens of; and 2) provide an opportunity for citizens to be involved in municipal affairs. Public hearings may be continued to another meeting if necessary or desirable.

3. Citizens Heard on Non-Agenda Items. Citizens wishing to speak on non-agenda items. The purpose of this item is to allow citizens to address the Council on matters related to city government and properly the object of Council consideration. A time limit of five minutes per citizen shall apply, unless the Mayor, prior to the Citizen Input period, decides to allocate less time. Citizen comment shall not exceed the time limitation unless the Council votes to suspend the rules. The council shall not act on issues raised during this portion of the agenda. Such items can be added to a future agenda if the Council so chooses allowing staff the opportunity to research the issue raised and provide comment.
4. Consent Calendar. The consent calendar includes all those routine or non-controversial items, which are indicated on the agenda. The items are considered as a single item without debate or discussion, except for simple clarification. Any member of the Council may remove an item from the consent agenda prior to the vote to approve it. Any items removed are taken up individually in the order they appear on the Council agenda.
5. New Business – Items requiring a vote of the Council including resolutions, discussion of proposed policy changes or proposed projects, or other business appropriate to Council discussion.
6. Information Items - Items not intended for discussion of the Council but rather departmental monthly reports or other items that may be of interest to the full council on either local or regional issues.
7. **City Manager & Other Department Reports – Items for discussion by the City Manager and Department heads as needed.**
8. Committee Reports – Reports by council members of the activities of committees (either regional or local) for which the council member has been designated as the Council delegate or liaison.
9. Other Business. Items from the Mayor or Council.
10. Adjournment.

## **Section 5. Discussion of business.**

A. The right to discuss the business before the Council is reserved exclusively for the mayor, councilors, the City Manager and the City Attorney, with the following exceptions:

1. Public hearings; and
2. Citizens wishing to speak on non-agenda items.

B. The presiding officer shall recognize any city staff member or member of the audience for discussion of any matter before the council.

C. No person shall be permitted to speak or present evidence until recognized by the presiding officer and given permission to speak or present evidence. All comments, evidence or questions from the floor will be addressed to the presiding officer. In the case of questions, the presiding officer will request input from the appropriate sources (staff, council or presenters).

### **Section 6. Conduct of Business.**

A. Presiding Officer. The Mayor shall preside at all meetings of the council. In the absence of the mayor, the Council President shall preside. The council president shall be elected at the first meeting of each odd-numbered year.

B. Absence of Presiding Officer. In the absence of the mayor and the council president, the council shall elect a councilor to serve as presiding officer as its first order of business. Any councilor may call a meeting to order for the purpose of electing a presiding officer.

C. Substitution of Presiding Officer. The presiding officer may appoint a temporary presiding officer to cover his or her temporary absence from the meeting by handing the gavel to the council president or, if the council president is absent or serving as presiding officer, to any other councilor.

D. Motion Procedure. When a motion is moved and seconded, it shall be stated by the presiding officer for debate. The mover, without the consent of the councilor seconding it, may not withdraw a motion once made. No councilor shall be allowed to speak more than once on a particular question until every other councilor has had an opportunity to do so.

E. Motion to Postpone or Table. A motion to postpone may be debated and amended and may specify a time when the question will be considered. A motion to table precludes all amendments or debate and if the motion prevails, consideration of the question may be resumed only upon the motion of a member voting with the majority.

F. Point of Order. Any member may raise a point of order at any time and the presiding officer shall determine all points of order, subject to the right of any councilor to appeal the decision to the full council.

G. Quorum. A majority of the Council constitutes a quorum for its business.

**Section 7. Conduct of Hearings.**

A. Scope of Rules. The rules contained in this section shall govern the conduct of administrative and quasi-judicial hearings held by the council including, but not limited to, those held pursuant to land use matters of the City. The City Council has assigned land use appeals to a hearings officer. The council may take quasi-judicial actions on various City Ordinance that specify an appeal to council

B. Nature and General Conduct of Hearing.

1. The Council, when conducting any such hearing, shall afford persons entitled under the ordinances of the City, such as the nuisance ordinance, to notice of hearing, an opportunity to be heard, to present and rebut evidence to an impartial tribunal, and to have a decision based on substantial evidence.

2. No person in attendance shall be disorderly, abusive or disruptive of the orderly conduct of the hearing and any person may be removed from the hearing for such conduct.

3. No person offering testimony shall speak more than once without obtaining permission from the presiding officer. Each person speaking shall be limited to 5 minutes.

4. No person shall testify without first standing, receiving recognition from the presiding officer and stating his or her name and residence or business address.

5. No person shall present irrelevant, immaterial or unduly repetitious testimony or evidence; provided, however, that reports and documents prepared by City personnel shall be deemed relevant, material and the weight or competency thereof shall be determined by the council.

6. There shall be no audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

7. The presiding officer, councilors, City Manager, City Attorney and with the approval of the presiding officer, any other employee of the City may question and cross-examine any person who testifies.

C. Challenging Participation by a Councilor.

1. Any proponent, opponent of, or other party interested in a matter to be heard by the council may challenge the qualification of any councilor to participate in such hearing and decision. Such challenge must state facts relied upon by the party relating to a councilor's bias, prejudgment, personal interest, or other facts from which

the party has concluded that the councilor will not participate and make a decision in an impartial matter.

a. Such challenge must be made prior to the commencement of the public hearing and shall be incorporated into the record of the hearing.

2. No councilor shall participate in discussion or vote on the matter when for any reason the councilor determines he or she cannot participate in the hearing and decision in an impartial manner.

3. No employee of the City who has a financial or other private interest shall participate in discussion with, or give an official opinion to, the council or the matter without first declaring for the record the nature and extent of such interest.

4. The general public has a right to have councilors free from pre-hearing or ex parte contacts on matters heard by them. It is also recognized that a countervailing public right is free access to public officials on any matter. Therefore, councilors shall reveal any significant pre-hearing or ex parte contacts with regard to any matter as early as possible under the circumstances in the hearing or the matter. If such contacts have impaired the councilors' impartiality or ability to vote on the matter, the councilor shall so state and shall abstain there from.

5. Notwithstanding any provision of this or any other rule:

a. An abstaining or disqualified councilor may be counted for purposes of forming a quorum; and

b. A councilor may represent himself or herself, a client or any other member of the public at a hearing; provided, that said councilor abstains from the vote on the matter, removes himself or herself from the council area and joins the audience, and makes full disclosure of his/her status and position at the time of addressing the council.

D. Order of Procedure. The presiding officer, in the conduct of the hearing, shall comply with the appropriate City ordinance and/or state law for specific types of hearings so regulated. For administrative hearings not subject to other City ordinances or state law, the hearing will be conducted in the following manner:

1. Commence the Hearing. Announce the nature and purpose of the hearing and summarize the rules for the conduct of the business.

2. Call for Abstentions. Any councilor announcing a decision to abstain shall identify the reasons for abstaining and shall not participate in discussion of the matter or vote on the matter.

3. Staff Report. The City Manager, or designee shall summarize the nature of the matter, explain any graphic or pictorial displays, which are a part of the record, and provide such other information as may be requested.

4. Written Communications. Written communications addressing any matter before the council shall be received by the City by 5:00 p.m. on the Wednesday immediately preceding a regularly scheduled council meeting unless for good cause the council waives the time period therefore.

**1. Mail**

**a. Letters addressed to Mayor and/or City Council – All letters addressed to the Mayor and/or entire City Council requiring a response from staff are copied to all Council members with a note as to which staff person will be preparing a response for the Mayor’s signature. A copy of the response mailed, along with the original letter will be provided to each Council member. Letters addressed to the Mayor and/or entire City Council that do not require a response, but provide information on Council agenda items or like matters are copied to the full Council.**

**Cards and other mail addressed to the Mayor marked “personal” and/or “confidential” will not be opened.**

**b. Letters addressed to Individual Council Members – All letters addressed to individual Council members will not be opened. The envelopes will be delivered/mailed to the individual Council member’s home address. If a Council member is requesting a response to be prepared by staff, the letter is copied to all members of the Council with a note as to which staff person will be preparing a response for the addressee’s signature. A copy of the response mailed, along with the original letter will be provided to each Council member.**

**2. Council Correspondence – All Council member correspondence written with City resources (letterhead, typing, staff support, postage, etc.) will reflect the position of the full Council, not individual Council member’s positions. All Council member correspondence using City resources will be copied to the full Council. For example, if a citizen writes a letter to an individual Council member, the response to the letter along with a copy of the citizen’s letter will be copied to the full Council.**

**3. Clerical Support – The City Manager’s Office will coordinate the typing of correspondence requested by individual Council members. All correspondence typed for Council members will be on City letterhead and will reflect the position of the full Council, not individual Council members, and will be copied to the full Council.**

**From time to time, citizens write to the Mayor to voice concern, request assistance, or to request information on an issue/item. When such letters are addressed to the Mayor, the City Manager will prepare a response letter for the Mayor’s review and signature. The response, along with a copy of the citizen’s letter, will be copied to the full Council.**

5. Audience Participation. Those present wishing to speak in favor of the proposed action will be allowed to speak, followed by those opposed to the proposed action.



6. Close of Hearing and Deliberation by Council. The presiding officer shall conclude the hearing and the council shall deliberate the matter. The council shall either make its decision or continue its deliberations to a subsequent meeting, the time and place of which must then be announced. The subsequent meeting shall be for the purpose of continued deliberation, and the presiding officer shall not allow additional submission of testimony, except upon approval by the council.

## **Section 8. Voting**

A. Requirement. The concurrence of a majority of those present and voting at a meeting, provided that a quorum is present, is required to determine any matter before the council. Each councilor present must vote on all questions before the council unless the member has a conflict of interest, which would disqualify the member from voting. If a member abstains, the reasons for the abstention shall be entered in the record.

B. Roll Call Vote. At the request of any councilor, or as a requirement of any ordinance, any question shall be voted on by roll call.

C. Tie Vote. In the case of a tie vote the Mayor must vote.

G. Motion to Reconsider. To provide usefulness and protection against abuse, the motion to reconsider has to be made by a member who voted with the prevailing side. (Only one who voted aye if the motion involved was adopted can move Reconsideration, or *no* if the motion was lost.) Any member regardless of the individual's previous vote on the subject can second the motion to reconsider. The purpose of reconsideration is to permit correction of hasty, ill-advised, or erroneous action, or to take into account added information or a change situation that has developed since the taking of the vote.

H. Record of Votes. Unless the vote is unanimous, the ayes and nays of each councilor shall be entered in the minutes.

I. Vote Required. The express concurrence of a majority of the council members present and constituting a quorum is necessary to decide affirmatively a question before the Council.

## **Section 9. Ethics Code**

A. Councilors shall review and be bound by the requirements of the State Ethics Law dealing with use of public office for private financial gain. Councilors shall give public notice of any potential conflict of interest and the notice will be reported in the meeting minutes. In addition to matters of financial interest, councilors shall maintain the highest standards of ethical conduct and assure fair and equal treatment of all persons, claims and transactions coming before the council. This general obligation includes the duty to refrain from:

1. Disclosing confidential information or making use of special knowledge or information before it is made available to the general public.

2. Making decisions involving business associates, customers, clients and competitors;

3. Violation of council rules in fact or intent;

4. Appointing relatives, clients or employees to boards and commissions;

5. Requesting preferential treatment for themselves, relatives, associates, clients, coworkers or friends;

6. Seeking employment of relatives with the City.

7. Actions benefiting special interest groups at the expense of the City as a whole;

8. Expressing an opinion which is contrary to the official position of the Council without so stating.

B. Councilors shall conduct themselves so as to bring credit upon the government of the City by respecting the rule of law, ensuring nondiscriminatory performance of public services, being informed concerning the matters of council consideration and abiding by all decisions of the council, whether or not the member voted on the prevailing side.

#### **Section 10. Legal Advice.**

Requests to the City Attorney for advice requiring legal research shall not be made by a member of the council. Requests for legal advice should be made of the City Attorney through the City Manager. Exceptions to this are issues related to the performance of the City Manager and the Mayor should make those inquiries. The City Attorney shall in either case provide any written responses to the full council and the City Manager.

#### **Section 11. Communication with Staff.**

Council members shall respect the separation between policy making and administration by limiting individual contacts with City employees so as not to influence staff decisions or recommendations, interfere with their work performance, undermine the authority of supervisors or to prevent the full council from having benefit of any information received.

Council members shall address all inquiries and requests for information from staff to the City Manager and allow sufficient time for a response. All written information given by the City Manager, or designee, to one council member shall be distributed to all council members.

Council members shall respect the roles and responsibilities of staff when and if expressing criticism in a public meeting or through public electronic mail messages. Staff shall have the same respect for the roles and responsibilities of council members.

## **Section 12: Use of Electronic Devices**

**192.670 Meetings by means of telephonic or electronic communication. (1) Any meeting, including an executive session, of a governing body of a public body which is held through the use of telephone or other electronic communication shall be conducted in accordance with ORS 192.610 to 192.690.**

**(2) When telephone or other electronic means of communication is used and the meeting is not an executive session, the governing body of the public body shall make available to the public at least one place where the public can listen to the communication at the time it occurs by means of speakers or other devices. The place provided may be a place where no member of the governing body of the public body is present. [1973 c.172 §7; 1979 c.361 §1]**

**A. It is the policy of the Council, in keeping with the intent of the state's open meetings law, that the use of electronic communications devices during Council meetings be limited and shall otherwise comply with rules and laws applicable to proceedings before the Council.**

**Any electronic communication regarding a quasi-judicial matter to be considered by the Council is an ex parte contact, and shall be disclosed, as required by law.**

**This rule does not prohibit the use of the City provided interactive computers on the dais for viewing the Council meeting agenda and agenda packet. This rule does not limit the use of electronic communications devices outside of public meetings. However, all electronic communications sent and received by Councilors must comply with the rules and laws applicable to public records.**

### **B. Definitions**

**1. As used in this section, "electronic communications devices" means laptop computers, smart phones, cell phones, or other similar devices capable of transmitting or receiving messages electronically.**

**2. As used in this section, "electronic communications" means e-mail, text messages, or other forms of communications transmitted or received by technological means.**

**3. All phones shall be kept in the silent or vibrate mode.**

**Section 13. Confidentiality.**

Councilor Members shall keep all written materials provided to them on matters of confidentiality under law in complete confidence to ensure that the City's position is not compromised. No mention of the information read or heard should be made to anyone other than other councilors, the City Manager or City Attorney.

If the council, in executive session provides direction or consensus to staff on proposed terms and conditions for any type of negotiation, whether it be related to property acquisition or disposal, pending or likely claim or litigation, or employee negotiations, all contact with other parties shall be made by designated staff or representatives handling the negotiations or litigation. A council member will not have any contact or discussion with any other party or its representative nor communicate any executive session discussion.

Although Oregon state law requires that the media be allowed to attend executive session, no council member should engage in discussion with the media outside the executive session on the topic. The media is no longer bound by the requirements of confidentiality should discussion continue once the executive session is adjourned.

Council members are bound by the confidentiality of executive session even after they no longer serve on the City Council.

The council, by resolution, may censure a member who discloses a confidential matter.

**Section 14. Suspension of the Rules**

By a majority vote, the Council may suspend any section of these Council Rules of Procedure, except for those sections regulated by City Charter, City Ordinance or State law.

Adopted by City Council on April 18, 2012- effective immediately