



Richland County  
Rules and Appointments Committee  
September 21, 2021 – 3:00 PM  
Council Chambers  
2020 Hampton Street, Columbia, SC 29204

COMMITTEE MEMBERS PRESENT: Bill Malinowski, Chair, Gretchen Barron, and Jesica Mackey

OTHERS PRESENT: Allison Terracio, Kyle Holsclaw, Tamar Black, Michelle Onley, Elizabeth McLean and Justin Landy

1. **CALL TO ORDER** – Mr. Malinowski called the meeting to order at approximately 3:00 PM.

2. **APPROVAL OF MINUTES**

- a. September 14, 2021 – Ms. Barron moved, seconded by Ms. Mackey, to approve the minutes as distributed.

In Favor: Malinowski, Barron and Mackey

The vote in favor was unanimous.

3. **ADOPTION OF AGENDA** – Ms. Onley noted that Ms. Meghan Easler and Ms. Tina Green had contacted the Clerk's Office and indicated they were unavailable for their interviews due to family sickness.

Ms. Mackey moved, seconded by Ms. Barron, to approve the amended agenda.

In Favor: Malinowski, Barron and Mackey

The vote in favor was unanimous.

4. **INTERVIEWS/APPOINTMENTS**

- a. Procurement Review Panel – Two (2) Vacancies (One applicant must be from the public procurement arena & One applicant must be from the consumer industry) – Ms. Tina Green was unavailable for her interview due to family sickness.
- b. Employee Grievance Committee – Three (3) Vacancies (MUST be a Richland County employee, 1 seat is an alternate) – Ms. Meghan Easler was unavailable for her interview due to family sickness.

Mr. William S. Ryon was interviewed for the Employee Grievance Committee.

Ms. Mackey moved, seconded by Ms. Barron, to forward to Council with a recommendation to

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appoint Mr. Ryon.

Mr. Malinowski offered a friendly amendment that we immediately re-advertise for the two (2) remaining vacancies.

In Favor: Malinowski, Barron and Mackey

The vote in favor was unanimous.

7. **ITEMS FOR ACTION**

- a. I move that Council work with staff to conduct a comprehensive review of Council rules and recommend changes to streamline the rules to improve the functioning of Council business [NEWTON]

**2.4 Censure** – Mr. Malinowski stated at the last meeting it was decided the “accused” would be allowed to talk for five (5) minutes and each member of Council would have three (3) Minutes. The “accused” would then be allowed to offer rebuttal for up to 15 minutes. At the conclusion of input, a motion may be made to censure the member. If the motion does not receive a second, or, if seconded, it does not pass by a two-thirds vote of Council, the matter is concluded and there would be reference in the record to the member being censured and found guilty or no motion to continue.

Ms. Barron noted they were discussing, if the member was found “not guilty”, it should appear in their file.

Mr. Malinowski stated there would be a record in the meeting minutes.

Ms. Mackey inquired if there were other courses of action researched or presented outside of the censuring process.

Mr. Malinowski responded this came about because of some actions by Councilmember(s) that were deemed inappropriate.

Ms. Mackey inquired if the record would be the meeting minutes.

Ms. McLean responded it will be a public meeting; therefore, the minutes would serve as the record.

Ms. Mackey inquired if Ms. McLean has seen other Councils use a different option.

Ms. McLean responded she has not. She noted most Councils avoid such things because each Council member was elected; therefore, the general feeling is it is up to the public to deal with these type matters. There have been times Council wanted to do something publicly, but had no recourse via their rules. She stated she could look into something less formal or more specific guidelines.

**2.6 Participation** – Ms. Mackey inquired as to what “pecuniarily” refers.

Mr. Malinowski responded that it refers to a financial interest.

Ms. Mackey stated, for clarification, the Chair would submit a recusal form.

Mr. Malinowski responded the Chair could recuse himself/herself at the time of the vote.

**2.8 Vice Chair** – Mr. Malinowski requested to strike the word “either” in the first line. He suggested including the following language: In the absence of the Chair and Vice Chair, the most senior Councilmember in attendance will preside over the meeting.

Ms. Mackey inquired if the Chair is in attendance, and the Vice Chair is not, can Council still proceed with the meeting.

Mr. Malinowski responded, in that instance, someone may step up to assist with “Citizens’ Input.”

**2.9 Signatures** – Mr. Malinowski inquired as to who is authorized to sign documents if the Chair and Vice Chair are unavailable.

Ms. McLean responded there are rare occasions when the Chair and Vice Chair would not be available.

**3.1 Seating** – Mr. Malinowski suggested the language be amended to read: “At the first meeting in January after the election and seating of the Chair and Vice Chair of Council, Council members shall select their seats based first on seniority in years of continuous services and then in alphabetical order. He also suggested making the language consistent in Rules 2.7 and 2.8 by removing “regular or special called”.

**4.1 Standing Committees** – Mr. Malinowski stated he was going to make a recommendation to add “(e) Ad Hoc Committees – Will follow the same rules as standing committees”.

Ms. Terracio suggested, in terms of how they are placed on the website, giving the Ad Hoc Committees the same kind of treatment.

**4.4 Agendas** – Mr. Malinowski stated we need to address Ad Hoc Committees in this rule.

Ms. McLean requested clarification on the following language: “Appropriate backup material for all items of business that are to be included in the...agendas must be delivered electronically to the County Administrator’s Office no later than 5:00 PM on the date two weeks prior to the committee’s scheduled meeting date.”

Mr. Malinowski responded, his understanding is, if it is going to be on a committee agenda, there needs to be time to provide information for that particular item. Since we have the rule that you can make the motion 24-hours prior to the meeting, you could have a motion on the agenda that is forwarded to a committee one week later, but there is no time to have any backup information. His thought was the time was there to give staff the opportunity to research and provide information, rather than just placing it on the agenda.

Ms. Mackey stated she does not believe the 2-weeks prior to the committee’s scheduled meeting date allows Council to operate efficiently. Oftentimes there is work to be done, and waiting 2 weeks is just not efficient.

Ms. Onley responded, when meetings are not back-to-back, it may be feasible. For example, if there was a motion on tonight’s meeting, there would be no way to make the agenda deadline of 5:00 PM tomorrow. The only thing on the agenda would be the verbiage from the motion.

Ms. Mackey stated there are some cases, for ad hoc committees, when it needs to happen that quickly.

Ms. Onley responded for the ad hoc committees it may be able to be done, but not for the standing committees.

Ms. Mackey stated she would like a separate section for ad hocs, and to reconsider how we look at committee meetings and how they are held.

Ms. Onley responded, historically, if a motion is made at the 1<sup>st</sup> meeting of the month, the motion goes on the committee agenda for that month, but if the motion is made at the 2<sup>nd</sup> meeting, the motion will not be placed on the committee agenda until the next month.

Mr. Malinowski stated, for clarification, the 2<sup>nd</sup> meeting is held on the 3<sup>rd</sup> Tuesday, and the standing committee meets on the 4<sup>th</sup> Tuesday. He requested Ms. Myers to assist with a recommendation.

Ms. Mackey inquired if the Committee Chair is the one that is selecting the location for the committee to meet.

Mr. Malinowski responded the only time the Committee Chair would select the location would be if the committee could not meet where they normally do. He suggested amending the language as follows: "Committees shall meet regularly in a location so designated."

Ms. Mackey inquired if the language "No committee shall sit unless a quorum is present" needs to be included in the rules.

Mr. Malinowski requested the language be struck.

Ms. Mackey requested clarification on the following language: "No Council member shall be allowed under any circumstance to vote by proxy."

Mr. Malinowski responded a Council member cannot authorize another Council member to vote on their behalf. He inquired if there has been any discussion on the language, "Members of the public may address a Committee with the permission of the Committee Chair and with the consent of the Committee". He noted the Committee Chair can grant permission, but then a committee member can say the committee needs to vote on it. He believes it should be one or the other.

Ms. Barron noted that scenario occurred recently in the Coronavirus Ad Hoc Committee meeting. There were elected officials that were told they could speak; however, there were varying opinions as to whether they were allowed to speak.

Mr. Malinowski stated, if we start allowing the public to speak at committee meetings, it could get out of hand.

Ms. McLean stated, in general, it is not done; however, there are times when you will want to ask a member of the public a question. You do not want to totaling disallow public input. She suggested including the language "at the request of".

Ms. Barron stated, if a vote had been taken at the Coronavirus Ad Hoc Committee meeting, some critical information would not have been received.

Mr. Malinowski stated, if the information is that important, and the committee votes to not allow the person to speak, you could defer the item until the next meeting to allow time to receive the information. He inquired where electronic participation was addressed in the rules.

Ms. McLean responded the only place electronic participation is addressed is under "Special Called Meetings".

Mr. Malinowski inquired if we need to note that electronic participation is not allowed at regularly called meetings.

Ms. Mackey indicated that is included in her motion we will discuss later.

Mr. Malinowski suggested the following language: "Electronic participation shall follow the same rules as Council meetings."

Ms. McLean responded, the problem with the language, is we do not necessarily have special called meetings of committees, so that is going to be difficult.

Mr. Malinowski suggested to include the following language: "Electronic participation is not allowed at regular committee meetings."

Ms. Barron stated, in the current times of the pandemic, it is not allowed unless we are under a state of emergency, then we can meet virtually.

Mr. Malinowski suggested amending the language to include, "absent exigent circumstances."

Ms. Barron stated the spirit of Ms. Mackey's motion is to allow Council more flexibility, when it comes to remote participation in Council and Committee meetings.

Mr. Malinowski responded, the only time the flexibility is allowed, for electronic participation, is during Special Called meetings, and Committee meetings are always regularly scheduled. Councilmembers could potentially take advantage of a rule that allows electronic participation, and the Councilmembers need to be in attendance.

Ms. Mackey stated, with COVID, the one thing we have learned is that you can participate in meetings without being in the same room with someone. If a Councilmember happens to be out of town on a work trip, they would like to have the option to participate and represent their constituents. She believes this opinion allows us to increase flexibility, and allow Councilmembers to represent their constituents.

Mr. Malinowski responded he believes people like to stretch the truth and take advantage of things when it presents itself. For example, he has seen Councilmembers get up and leave to participate in a community meeting. He believes the community needs to be advised their representative will be participating in a Council meeting, so they will need to change their meeting date if they wish to have their representative present. He suggested opening the discussion up to full Council.

**4.6 Legislative Action** – Mr. Malinowski requested the duplicative language in (b) be removed. (i.e. For items on the agenda for information, discussion and/or preliminary action.) He noted we need to add an Ad Hoc Committee Meeting section. Ms. Onley was requested to send a request to Council for their feedback.

**4.9 Budget Work Sessions** – Ms. Terracio inquired if there are any rules regarding regular work sessions. (i.e. How they are formed? Who calls them?)

Mr. Malinowski responded he is not aware of any rules.

Ms. Terracio inquired if there needs to be any clarification on how work sessions work, or should work. She noted when she first came on Council, there were quite a few, and then we had a lull.

Ms. Barron stated having clear guidance when we gather is helpful, so she is for putting rules in place.

Ms. Terracio inquired if a work session is considered a Council meeting that we have to notice.

Ms. McLean responded in the affirmative. They are “Special Called Meetings”, but we treat them in a way that is a little different. It is a Council meeting. You have to notice it. There is an agenda. A portion of the rules already addresses a Special Called for a Special Purpose, which this would be.

Ms. Terracio inquired if work sessions are called the same way a Special Called meeting is called.

Ms. McLean responded it should be, but she is not sure that is how it is being done. Generally, someone needs to request the work session, and put it together like a Special Called meeting.

Ms. Onley responded work session are usually held on complex matters (i.e. Southeast Sewer Project). There is no action taken at the work session, only the receipt of information.

Mr. Malinowski suggested including the following language: “A quorum is not necessary, as the session is for the receipt of information only, and no action is taken.” In addition, to list the different work sessions as (a) and (b).

Ms. McLean stated, to the extent that it is a meeting of Council with six (6) members, it has to be noticed, and you have to follow FOIA. If you notice it and only five (5) members show up, you can still proceed with the meeting because you are only receiving information, and not taking any action.

**5.2 Other Ordinances- Required Readings** – Mr. Malinowski noted there is a typo in the 2<sup>nd</sup> paragraph. The sentence should read: “...three reading approvals...”

Ms. Mackey inquired if the rule that an ordinance that does not receive three readings cannot be reintroduced for twelve (12) is a State statute or is that a Council rule.

Ms. McLean responded it is a Council rule.

Ms. Mackey inquired as to why it is twelve (12) months.

Ms. McLean responded she would imagine it would allow for circumstances to change before the same matter is taken up again. It also prevents Council members from bringing a matter up every few months. This only applies to the exact same issue, if something changes it can be brought back.

**5.3 Levying Tax/Incurring Debt/Amending Budget** – Ms. Mackey inquired if the following language is a State statute or a Council Rule: “An amendment to the budget shall require at least a

majority plus one vote [i.e. at seven (7) members of Council.]

Ms. McLean responded she is not aware of this being a State statute. She will research the matter, and report back to the committee.

*{It was determined this is not a State statute, but a Council Rule.}*

Ms. Mackey requested to delete the last sentence of the rule.

**5.5 Second Reading** – Mr. Malinowski suggested including the following language: “with an interval of not less than seven days between second and third readings.”

**5.11 Closing Debate** – Mr. Malinowski inquired why this rule has been struck through.

Ms. McLean responded she assumes it is covered in another rule. She will research the matter and report back to the committee.

**5.13 Nondebatable Motions; 5.16 Motion to Strike; and 5.17 Rejected Motions** – Mr. Malinowski requested Ms. McLean to research why these rules were struck and report back to the committee.

Ms. McLean stated, if these rules are verbatim what Robert’s Rules would do, we would not need to include them in Council Rules.

**5.16 Delays** – Mr. Malinowski noted this rule should read: “The Chair shall entertain no motion that would have the effect of unnecessarily delaying the business of Council.”

Ms. Mackey inquired about the intent of the rule, and who would be deeming what is unnecessary.

Ms. McLean responded the Chair would make that determination.

**5.18 Voting** – Mr. Malinowski noted if a Councilmember does not vote it will be recorded as “Present but Not Voting”.

**5.19 Voting for Board and Committee Appointments** – Ms. Mackey requested to eliminate the sentence referenced Robert’s Rules of Order.

**5.22 Public Inspection** – Mr. Malinowski suggested amending the language to read as follows: After adoption, the full ordinance shall be made available for public inspection through the Legal Department.

**5.24 Proclamation** – Ms. Barron inquired if the Chair should be signing off on proclamations.

Ms. McLean responded it has not been traditionally done, and does not know that it is required. It seems a little odd because the Chair may not agree with the proclamation’s content.

Mr. Malinowski suggested changing the language to read: “The Proclamation shall be signed by the initiating council member, and shall not require action by the Council.”

**6.1 Suspension/Amendments** – Ms. Mackey inquired where the proposed language came from.

Ms. McLean responded Mr. Farrar looked at the model rules from SCAC, conversations with Councilmembers, etc. She stated she will have to research this language and provide a report back to the committee.

Mr. Malinowski stated we are awaiting responses from the Attorney's Office on why the following rules were eliminated: Rules 5.11, 5.13, 5.16 and 5.17. In addition, we need discussion on Rule 4.4 Agendas and Rule 4.5 Meetings. The Clerk's Office will send an email to Council informing them that in reviewing the rules, there is nothing that addresses Ad Hoc Committees. The Rules Committee believes there needs to be specific rules for them to follow, and is requesting Council's input on rules governing said Ad Hoc Committees.

1. *Once Council approves an action no Council member is to individually go to a staff member in an effort to accomplish/change something that was not in the approved information/action by Council* [MALINOWSKI – August 31, 2020] – Mr. Malinowski stated, in the past, Councilmember(s) may not have liked what was presented at a work session or in an agenda, and would go to staff requesting changes. He does not believe this should be handled this way. If a member does want to make changes, they should make a motion at a Council meeting.
2. *I move that all County Employees presenting to County Council during an official Council meeting (Regular, Special Called, Zoning Public Hearing or Standing Committees) held in Zoom have a live camera running during their actual verbal input* [MANNING – October 6, 2020] – Mr. Malinowski stated he does not have a problem with putting this language in the rules.

Ms. Mackey stated some employee's computers do not have cameras available. She noted it would be nice to have staff on camera; however, she does not believe it should be a rule.

Mr. Malinowski suggested including the language, "Anyone presenting to County Council, during an official Council meeting (Regular, Special Called, Zoning Public Hearing or Standing Committees) held in Zoom have a live camera running during their actual verbal input, if possible."

Ms. McLean stated we may need to address how the public, staff and Council participate in virtual meetings.

3. *Move to amend Council Rules related to virtual and phone call meeting attendance and have this motion included on the July 20, 2021 Rules and Appointments Committee meeting agenda* [MACKEY – July 13, 2021] – Mr. Malinowski stated this will be further discussed when the committee takes up Rule 4.5 Meetings.
- b. I move to amend the Public Nuisance Ordinance to define "Public Places/Establishments" to include restaurants, taverns, lodges, parking lots, and public places where children or students attend and/or normally congregate [DICKERSON – October 6, 2020] – Ms. McLean stated, in her opinion, this is addressed in the existing ordinance language.

Ms. Mackey moved, seconded by Ms. Barron, to forward to Council with a recommendation to not amend the language of the public nuisance ordinance.

In Favor: Malinowski, Barron and Mackey

The vote in favor was unanimous.

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- c. I move that if matters such as Clerk to Council Search or Compensation for Interim Clerk of Council are to be a part of the Employee Evaluation Oversight Ad Hoc Committee that the name of the Ad Hoc Committee be changed to better reflect what would fall under the purview of its function, responsibility, and/or purpose [MANNING – October 20, 2020] – Ms. Mackey stated, in her opinion, the name of the ad hoc committee is fine as is.

Ms. Barron stated, if we change the name, one of the ad hoc committees established last week, could easily fall under this purview. If we already have a committee addressing employment issues, we can change the name and put it all under this committee, and not have to have the newly established ad hoc committee.

Ms. Mackey noted, in this case, the newly established ad hoc committee, has a different need than what is addressed by the Employee Evaluation and Oversight Ad Hoc Committee.

- d. All County Council contracts and agreements adopted by a majority vote of full Council will require a majority vote of full Council to amend and/or change [NOTE: This motion should be taken up as soon as possible, and not be addressed with the overall Council Rules update] [LIVINGSTON – July 13, 2021] – Ms. McLean stated, on any matter to be addressed by Council, a motion, whether explicit or implicit, to temporarily suspend any rule requiring a majority vote shall require unanimous consent of those members present.

Mr. Malinowski inquired about the vote that was referred to.

Ms. McLean responded a termination of employment.

Mr. Malinowski stated he would like to see more specific language.

Ms. McLean responded she could include an example, although she does not typically recommend doing that.

Mr. Malinowski stated even though Council, as a majority, votes to get something implemented, if you have four (4) different options, it is the same as appointing to boards and commissions. The one with the most votes is appointed.

Ms. McLean responded it is called a plurality, and it is allowed. The question is whether you want that to be prohibited in the rules is up to Council.

Mr. Malinowski stated he would like the rules to allow plurality votes, when there are multiple options presented.

Ms. McLean will provide draft language for the next Rules and Appointments Committee.

## **8. ITEMS FOR DISCUSSION**

- a. Boards, Committees and Commission Recruitment – Ms. Mackey requested to move this item to an action item on the October 5<sup>th</sup> committee agenda. In addition, she requested IT to include the date applications are received when the applications are uploaded to the agenda packet. She would also like to see the stats in the online application software.

Ms. Onley responded she will contact IT to provide the requested information.

1. *Direct the Rules Committee to determine which Richland County Boards, Commissions should have as a qualification that the person applying must reside in the unincorporated area of Richland County only. There are some of these positions where other municipalities appoint individuals and if a person applying for one of those positions resides in that municipality then they should make application through them [MALINOWSKI – October 6, 2020]*
  - b. Boards, Committees and Commissions Descriptions and Duties – Mr. Malinowski requested to move this to an action item on the October 5<sup>th</sup> committee agenda.
9. **ADJOURNMENT** – The meeting adjourned at approximately 4:55 PM.